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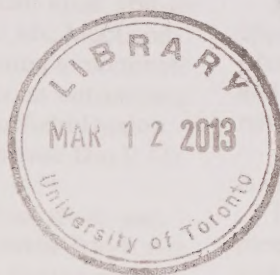
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Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40^e législature



Official Report of Debates (Hansard)

Wednesday 27 February 2013

Journal des débats (Hansard)

Mercredi 27 février 2013

Standing Committee on
the Legislative Assembly

Organization

Comité permanent de
l'Assemblée législative

Organisation

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Wednesday 27 February 2013

The committee met at 1303 in room 228.

ELECTION OF CHAIR

The Clerk of the Committee (Mr. Trevor Day): Honourable members, it is my duty to call upon you to elect a Chair. Are there any nominations? Ms. MacLeod.

Ms. Lisa MacLeod: I would be honoured to nominate the member from Simcoe North. He was an outstanding Chair in the last session, so I nominate Garfield Dunlop.

The Clerk of the Committee (Mr. Trevor Day): Mr. Dunlop, do you accept the nomination?

Mr. Garfield Dunlop: I sure would. Yes, thank you.

The Clerk of the Committee (Mr. Trevor Day): Are there any further nominations? Seeing no further nominations, nominations are closed.

Mr. Dunlop, would you come please take the chair.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Clerk, and to everyone else who feels I have the ability to chair this meeting.

ELECTION OF VICE-CHAIR

The Chair (Mr. Garfield Dunlop): I now would like to call the nominations for the Vice-Chair of this committee. Mr. Clark.

Mr. Steve Clark: Mr. Chair, first of all I want to thank you and congratulate you on your appointment as Chair. I also want to extend belated happy birthday greetings to you for your birthday yesterday.

The Chair (Mr. Garfield Dunlop): Thank you.

Mr. Steve Clark: Chair, it gives me great pleasure to nominate Lisa Anne MacLeod, the member for Nepean-Carleton, to the position of Vice-Chair of the Standing Committee on the Legislative Assembly.

The Chair (Mr. Garfield Dunlop): Ms. MacLeod, do you accept the—

Ms. Lisa MacLeod: I appreciate him mentioning my middle name. It's also—

The Chair (Mr. Garfield Dunlop): Okay, Lisa Anne.

Ms. Lisa MacLeod: Thank you.

Interjection.

Ms. Lisa MacLeod: It's with an E.

The Chair (Mr. Garfield Dunlop): Is there any further nomination?

Any discussion on the motion? So carried? Carried.

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Mercredi 27 février 2013

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Garfield Dunlop): Mr. Mauro, I understand you have a subcommittee motion?

Mr. Bill Mauro: I do, Mr. Chair, thank you very much. A motion to be moved in committee:

I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary is necessary to constitute a meeting; and

That the subcommittee be composed of the following members: The Chair as Chair, Ms. MacLeod, Mr. Bisson and Mr. Balkissoon; and

That substitution be permitted on the subcommittee.

The Chair (Mr. Garfield Dunlop): Any discussion on the subcommittee motion? No questions? All in favour of the subcommittee motion? That's carried.

COMMITTEE BUSINESS

The Chair (Mr. Garfield Dunlop): Ladies and gentlemen, we have the draft committee report. Would you like to explain that, please?

The Clerk of the Committee (Mr. Trevor Day): Sure. Under standing order 111, the three policy field committees, general government, social and justice, can undertake studies and, in doing so, we direct that certain ministries are assigned to each of these three policy field committees. I think it was last May or so, the last time we did this report, they were assigned. That continues; however, the ministry names have changed so there's a need to actually change our report slightly based on the change in ministry names.

There is an explanation as to how it was done. That's the memo that's upfront. But basically it's a renaming of which ministries are assigned to which. The only committee it affects is general government, and the rationale for why they were assigned to which is on the accompaniment. It's really just a case of, if the committee is okay with it, adopting the report.

Mr. Gilles Bisson: Sorry. Can you redo that right from the beginning?

The Clerk of the Committee (Mr. Trevor Day): The Standing Committee on the Legislative Assembly is responsible for assigning ministries to the three policy field

committees. The last report that the committee did was fine right up until the latest swearing-in, where ministry names were changed. What we've done is we've drafted a new report which basically—the only committee it affects is general government at this point, but it's for the committee to decide if they are okay with the way this is and adopt it, if they see fit.

The Chair (Mr. Garfield Dunlop): Mr. Bisson?

Mr. Gilles Bisson: I haven't had a chance to look it over. I'd ask that we table that off to the next meeting.

The Clerk of the Committee (Mr. Trevor Day): We can, and that's not a problem. I guess the only place where it would possibly or potentially pose a problem is if the Standing Committee on General Government was looking to do a 111 on one of these and it wasn't appropriately assigned between now and—

Mr. Gilles Bisson: That's right, but that gives us a chance, because it's the first I heard of it. It'll allow the House leaders to sit down and have a chat. We'll deal with it on Thursday.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Balkissoon?

Mr. Bas Balkissoon: Chair, I hear what Mr. Bisson is saying but I think the Clerk is basically saying that if you look at the ministries, they were actually reporting to general government previously but under a different name. All we're doing is adopting—I understand where Mr. Bisson is coming from, because in our review we talked about it. Our review is not completed; we can still do that. But rather than hold this up, I think we should do it because if something comes up between now and next week, it holds up the whole process.

The Chair (Mr. Garfield Dunlop): Ms. MacLeod has a question.

Ms. Lisa MacLeod: The official opposition, in a rare agreement with the government, thinks that we should just proceed and have the vote. I think this is house-keeping. It's nothing new. We're not surprised by this. We've now known for a couple of weeks what the ministries were and where they should be assigned. I think, in terms of every other committee waiting on our time line, it really isn't up to us to delay what they do. Those committees set their agendas. I think we should just give them the tools immediately to do the job.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Bisson again.

Mr. Gilles Bisson: There's a conversation that has started in House leaders in regard to assigning some of this stuff. It's not concluded. So if in the end there is a bill—I'm very doubtful there will be a bill that will pass second reading between now and our next meeting. We should be okay to wait till next week, and if not, we have a magical way of working this out. It's called unanimous consent. I ask that we put this off, because there is a conversation that has started in House leaders in regard to the assignment, and we just need to finish that.

The Chair (Mr. Garfield Dunlop): Mr. Balkissoon.

Mr. Bas Balkissoon: I hear what Mr. Bisson is saying, but all of us, as members, are not part of the

House leaders' discussions. We're here to do committee work. I don't see how adopting this actually holds up anything the House leaders are discussing, so I'm prepared to move the draft report.

1310

The Chair (Mr. Garfield Dunlop): Okay, if we've got a mover and a seconder, we'll accept the report.

Ms. Lisa MacLeod: I'll second it.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Bisson.

Mr. Gilles Bisson: Can we just agree that if there was a change in House leaders, this committee will actually deal with changing the assignment to some of the ministries? I don't understand why there's such a snuggling up of—

Interjections.

The Chair (Mr. Garfield Dunlop): Okay, hold on.

Mr. Gilles Bisson: Let me just finish. I'm interested to see that the Conservatives are snuggling up and going to bed with the Liberals, and I'm glad to see that the Conservatives, at every attempt, are trying to prop up this government, and it's duly noted.

The Chair (Mr. Garfield Dunlop): Okay, we've heard your comments. I have a mover. I'm going to put the question.

Ms. Lisa MacLeod: We'd just like to get moving on business.

The Chair (Mr. Garfield Dunlop): Shall this draft report carry? All in favour?

Mr. Gilles Bisson: We're not finished. I was waiting for Madame MacLeod to—

The Chair (Mr. Garfield Dunlop): Okay, before I call the vote, another comment.

Mr. Gilles Bisson: I was waiting for Madame MacLeod, my learned, esteemed colleague, to see if she decided, in the fullness of time, to change her mind on supporting the government on this particular request.

Ms. Lisa MacLeod: This really isn't a recommendation from the government. It is a memo to the Chair and members of the committee, of which I am Vice-Chair. It is from the Clerk of the committee, so it is not a government motion, per se; it is a committee member motion. In the interest of actually trying to get some work done after we've been shut out of this place for five months, I would just like to allow the committees that exist in this assembly to do their job.

If the NDP wants to hold up work in our committees, that is their business. I for one have agreement with my caucus colleagues that we want to pursue committee study in some of our committees, and we want to see action on 111(b). So with that, the official opposition will support the impartial, unbiased Clerk's recommendation. If the government of the day also chooses to support that motion, then I think that the Clerk must have gotten it right. I will be voting to move on, set the agenda moving forward and allow the other committees to do their job.

The Chair (Mr. Garfield Dunlop): Mr. Bisson.

Mr. Gilles Bisson: So, two points. The first point is, we just got this from the Clerk, so it's the first that I've

got it. That is one thing. I was hoping that we'd have a little bit of time to look at it.

I want to just say to my honourable colleague: I have taken note of your comments. I will copy that Hansard and remember the words used, because this is definitely a snuggling up on the part of the Conservative Party to support the Liberals yet again—the Conservatives working with the Liberals to prop up this government. I am shocked.

The Chair (Mr. Garfield Dunlop): Any other debate?

Ms. Lisa MacLeod: Yes, Mr. Chair. I assume that means the New Democrat member will be voting with the official opposition on confidence measures, whether that is the throne speech or the next budget. Let's be very clear: Propping up a government is when you vote for them on a confidence measure or you sit on your hands during a budget.

If we want to continue this discussion, let's go ahead. But if we want to get back to work, like the taxpayers of this province expect us to be at work, then let's just move forward. Let's actually support the impartial, unbiased Clerk, who provided us with a nice agenda item here. We can support him; he is here for the people of Ontario. He holds no party affiliation, and I am supporting his recommendation.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Balkissoon, you had a question?

Mr. Bas Balkissoon: I just want to make a comment. I am prepared that if there are any changes that are recommended by the House leaders or even through our review, and we all agree on those changes, we adopt them right away and not delay it.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Bisson?

Mr. Gilles Bisson: Mr. Balkissoon, as long as we have an understanding, if we have a conversation with House leaders, we'll bring it back and we can do those changes over.

I just want, for the record, to remind the honourable member that she took great delight in holding up the House for how long, ringing bloody bells last spring? Anyway, it's good to see you guys are snuggling up with the Liberals.

The Chair (Mr. Garfield Dunlop): Any other comments from anyone?

Ms. Lisa MacLeod: We had the first vote of the assembly yesterday, and I will remind the member, my honourable colleague from Timmins–James Bay, that when I stood up with the Ontario PC caucus, we were shocked to see that moving forward together was the NDP and the Liberal Party, once again voting together.

I think if we want to talk about where votes lie in this assembly, the record will reflect very accurately what has happened.

The Chair (Mr. Garfield Dunlop): Okay, I'm going to put the question.

Mr. Gilles Bisson: I want a recorded vote, Chair.

Ayes

Balkissoon, Clark, Colle, Flynn, MacLeod, Mauro.

Nays

Bisson, Forster.

The Chair (Mr. Garfield Dunlop): The motion carries.

What else have we got, sir?

The Clerk of the Committee (Mr. Trevor Day): There are two Ombudsman's reports for your information, but that's it.

The Chair (Mr. Garfield Dunlop): There are two Ombudsman's reports on your desk in front of you. These were put out in the prorogation period.

Thank you very much, committee. We are now adjourned.

The committee adjourned at 1316.

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Ms. Lisa MacLeod (Nepean–Carleton PC)

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Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Wednesday 1 May 2013

Journal des débats (Hansard)

Mercredi 1^{er} mai 2013

Standing Committee on the Legislative Assembly

Subcommittee report

Committee business

Comité permanent de l'Assemblée législative

Rapport du sous-comité

Travaux du comité



Chair: Garfield Dunlop
Clerk: Trevor Day

Président : Garfield Dunlop
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 1 May 2013

Mercredi 1^{er} mai 2013*The committee met at 1306 in room 228.*

SUBCOMMITTEE REPORT

The Chair (Mr. Garfield Dunlop): Okay. We'll call the meeting to order. Welcome, everybody, to our Standing Committee on the Legislative Assembly. The first item of business is the report of the subcommittee.

Mr. Bas Balkissoon: Do you want me to read it?

The Chair (Mr. Garfield Dunlop): Go ahead. Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you, Mr. Chair.

Your subcommittee on committee business met on Wednesday, April 10, 2013, to consider the business of the committee, and recommends the following:

(1) That the Chair of the committee notify the House leaders of the committee's desire to accept this year's annual invitation to the National Conference of State Legislatures.

(2) That, in response to the correspondence from the Standing Committee on Regulations and Private Bills, the committee invite the Chair, Mr. Tabuns and Mr. Hillier, to elaborate on their request for standing order amendments.

(3) That the Clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Garfield Dunlop): Any questions or debate on that? All in favour? Carried.

COMMITTEE BUSINESS

The Chair (Mr. Garfield Dunlop): The second item is the National Conference of State Legislatures 2013 annual conference and the consideration of the draft budget.

Mr. Bas Balkissoon: These are the same numbers as last year.

The Chair (Mr. Garfield Dunlop): The same numbers as last year, yes?

The Clerk of the Committee (Mr. Trevor Day): The categories are the same; the numbers are actually lower than last year.

Mr. Bas Balkissoon: Because of the airfare.

The Clerk of the Committee (Mr. Trevor Day): Airfare is actually one of the higher items, because when

we book for you, it has to be fully transferable and fully refundable. Should you choose to do your own booking based on your schedule, you can get much cheaper flights, but we have to allow for the greatest-case scenario. So that's what we have in here.

Mr. Gilles Bisson: What's the date again?

The Clerk of the Committee (Mr. Trevor Day): It's August 11 to the 15th.

The Chair (Mr. Garfield Dunlop): Any questions on it?

Mr. Mike Colle: Where is it?

Mr. Bas Balkissoon: Atlanta, Georgia.

The Chair (Mr. Garfield Dunlop): Yes, Mr. Hillier?

Mr. Randy Hillier: I just have one question. Is this dedicated for the members of this committee, or is it being offered out to all other members?

The Clerk of the Committee (Mr. Trevor Day): Members of this committee.

Mr. Randy Hillier: Members of this committee.

The Clerk of the Committee (Mr. Trevor Day): Voting members of this committee.

Mr. Randy Hillier: Voting members of this committee?

The Chair (Mr. Garfield Dunlop): Appointed members of this committee.

Can I ask you, then, to approve the draft budget? Mr. Flynn—

Interjection.

The Chair (Mr. Garfield Dunlop): Is it approved? Okay. That's carried, then.

We have one other comment here from the Clerk.

The Clerk of the Committee (Mr. Trevor Day): The only other thing to mention for the committee is that, just for your information, committee room 151 is now web-cast for all meetings in that room, on our website, and just tying in with that, this committee is meant to do an annual review of the broadcast and recording, and any type of Web streaming would most likely fall into that. So it is on the committee's agenda, as something that we can do, should we choose to, in the future. That's pretty much what we have before us.

The Chair (Mr. Garfield Dunlop): Any other comments or questions for today? I know it's a short meeting, but I appreciate your coming out to get this at least out of the way. Nothing else?

Okay, we're adjourned.

The committee adjourned at 1310.

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Mr. Bill Mauro (Thunder Bay–Atikokan L)

Substitutions / Membres remplaçants

Mr. Randy Hillier (Lanark–Frontenac–Lennox and Addington PC)

Mr. Jack MacLaren (Carleton–Mississippi Mills PC)

Clerk / Greffier

Mr. Trevor Day

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Official Report of Debates (Hansard)

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Mercredi 8 mai 2013

Standing Committee on the Legislative Assembly

Standing orders review

Comité permanent de l'Assemblée législative

Examen du Règlement



Chair: Garfield Dunlop
Clerk: Trevor Day

Président : Garfield Dunlop
Greffier : Trevor Day

would be very appropriate for government members, as well as opposition members, to request the committee to scrutinize a particular regulation that may be causing harm or injury to their constituents and propose recommendations back to the House for its remedy.

That's where the motivation for these motions came from. Since then, I've developed additional motions in the package that, once again, fall into that basket of not providing an advantage to government or opposition, but to empower all of us and to help engage our constituents in democracy.

Two of the other motions you'll see in there: One is to allow for electronic petitions to be tabled in the House. I'm not sure if the members of this committee have used electronic petitions. I have used them extensively. I find them an exceptionally valuable tool to put ideas and thoughts or to take ideas and thoughts that have come from constituents and give them a tool that allows them to feel that they are part of democracy.

The other one under that modernizing of the Legislature is to be more transparent, and that is to have web-casting or web streaming of all our committee activities here in the assembly.

Again, I don't believe one could view any of those proposals as a partisan proposal. This would be a benefit, not only for us but, more importantly, a huge benefit for our constituents that we represent.

I guess that the other category that I'd like to speak to is, there is that element for members to hold government to account. Again, whether that's opposition members or government backbench members, our purpose is to hold government to account, and also to advocate on behalf of our constituents. A series of motions that I've included, I believe, would facilitate that.

First is recognizing the value of us, recognizing the value of the legislation or motions that we put forward, and not allowing our efforts to fall into the abyss of process. At the present time, it is the government's exclusive monopoly to call private members' business for third reading after a private member's bill has received support from the House at second reading. Once it has received an airing and a proper ventilation of concerns in committee, it is often just left in that abyss of process, never to proceed again. It's never defeated, but it's never advanced. I've proposed a number of mechanisms that would compel government and provide time for those bills that have received the support of the House, received the support of the committee, to be actually heard and properly ventilated at third reading. Again, that would be for government members and opposition members.

I believe it would also strengthen our credibility and provide some greater emphasis on members, knowing that a bill could actually go to third reading and actually be approved. It would elevate the calibre of the private bills that we put forward because, speaking frankly, we know that we can all vote for a private member's bill at second reading, and the chances of it ever seeing the light of day after that are negligible. I think it's in the briefing

package as well. You can see that from 2002 to 2012, there have been 28 private members' bills or motions passed or adopted by the House, but really, the vast majority of them are proclamations, whether it be Dutch Heritage Week or Ukrainian Week—which are all fine and good; however, I think we can probably all agree that there are significant and substantive elements and interests of our constituents other than just proclamation bills. These mechanisms, I believe, would improve the calibre of the House, the calibre of our legislation and improve our representation for our constituents.

Another very important aspect—and maybe I should add this into my conversation. Nothing in this package that I've put forward is new and unique. They are all experienced in other Legislatures around the world, in provincial and/or federal Houses, so they ought not to be seen as radical or untested or untried. These are all in use around the world in Westminster-style Parliaments.

I probably want to finish off with the one on motions. I believe we do ourselves a great disservice as private members by not being able to give voice to our motions. At the present time, a private member tables a motion, but it is never heard in the House unless it is used as a ballot day by that private member. I guess a case in point—I went up to see a journalist in the media gallery before this committee, and I provided him with a copy of this presentation. He was not aware that these motions, even though they're written—all the motions in this presentation have been placed on the order table over the last number of weeks or months. The media was unaware that these motions were up for discussion.

The first one is to allow private members, at the time of motions during routine proceedings, to actually give voice to their motion instead of just tabling it. Again, I would hope and trust that that is not seen as an advantage to one over another, but it's actually giving voice to our constituents' concerns by allowing us to read them aloud.

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The second part of the motion that I think is important is to allow motions to have a binding element. At the present time, motions cannot be binding on the House. It's my view that efforts that cannot have an action or an outcome often ring somewhat hollow. My view was that, when necessary and when appropriate, a member could include a binding element—a binding resolution—in the motion, such that if it was adopted by the House, it would be referred to a committee as a motion, or whatever other appropriate action, depending on that motion. Again, it just allows and provides for a mechanism for all members of the House to realize a tangible outcome from their efforts.

I think that what I would ask this committee—and I'm hoping there will be some questions or comments on these proposals—is that, if this committee is in agreement with any portion, or all, of these proposals, the committee recommend to the House that each or any one of these motions be referred to the House for adoption.

With that, I think I'll finalize my comments.

The Chair (Mr. Garfield Dunlop): Thanks very much, Randy. We do have some questions already.

Before we get into the questions, I'd like Trevor to just update us on exactly where we are on our review of the standing orders, as a result of the prorogation last fall and the order we were under to come up with a report. If you wouldn't mind just giving us that, and then we'll get into questions on Randy's. Certainly, Randy, we had discussed a number of the things in your motion at some point—the private members' bills etc.—but I'd just like to get a review, if everyone wouldn't mind.

The Clerk of the Committee (Mr. Trevor Day): The mandate of this committee at all times is to look at the standing orders; it's built in. What happened as a result of prorogation, actually, was that the membership motion of last year lapsed. Built in on that was that you have to do a standing orders review before you do anything else. That is now gone; the committee is free to do what it likes under its own mandate. This falls under the committee's mandate, so it's perfectly within the committee's purview to look at it, should they so choose.

Coming out of the last orders sort of review, the committee agreed on three items:

- that the Speaker be able to deal with disability issues without going to the House—do it in and of his own accord;

- the reuniting of question period and routine proceedings—where that takes place, either morning or afternoon, was not decided, but they agreed that the two should come back together; and

- there was an agreement, on opposition day debates, to include a five-minute right of reply, that the vote be deferrable and a 10-minute bell.

Those are the things that the committee had some agreement on before we left off. A proposed House schedule was sent to the House leaders for their information—we had a couple of versions that we asked for their input on, so we sent that off.

Where there was going to be further discussion or information required:

- parliamentary officers—what takes place there and how they are governed in terms of a committee;

- more work on proclamation bills and the guidelines around how the grounds are used for flag-raising and stuff like that;

- each party was going to look at recommendations for how to make committee work a little better, in terms of getting bills through; and

- the committee had yet to, but wanted, delegated legislation or regulations on the frontier of something they would look at in earnest going forward.

That's where we're at.

The Chair (Mr. Garfield Dunlop): Okay. Thanks very much, Trevor. Now we'll turn it over to Ms. MacLeod. You have a question for Randy?

Ms. Lisa MacLeod: Yes. First of all, I just want to thank my colleague from Lanark, Lennox, Addington and somewhere else. His riding is next door to mine, but it's about nine times the size of my riding and it's got a longer name than mine. Mr. Hillier has been a friend of mine for an awfully long time, and I want to commend

him first for putting what I consider to be a really good product in front of us.

I know his staff, Chris Chapin and Dan Osborne, are here as well. I'd like to congratulate them because, as we all know, we're all geniuses of course as members of provincial Parliament, but we do need people to assist us, and I know that they probably have done that as well.

But Mr. Hillier, I think, has made a reputation since he got to the Legislature as somebody who wants to fight for more freedoms for backbenchers and private members in particular. He's put forward a good package on that. Many, as you yourself mentioned, Chair, and as the Clerk mentioned, are issues that we have dealt with before and where, I think, would probably have had a consensus around, had it not been for the interruption in the committee's work.

I ask you, Mr. Hillier—because I think again the work that you've done here is quite compelling. Most of it I obviously would agree with; some of it we, as all private members, may have a few differences. I'm just wondering: In terms of strengthening the role of a private member, I just want to hear a little bit more about those issues in terms of private members' business, because I would agree with you, as a private member in the opposition, that there are a lot of good ideas but they seem to go nowhere. You really do want to make an impact, and the one place where we can have an impact we're not able to do that anymore because of the way the rules have been around here.

Just finally, I would be very supportive—and this is just a final comment and I invite this for a response from my other colleagues on the committee. I would be very comfortable actually voting on these resolutions today to make a presentation from committee to the assembly. I wanted to say that. But if you want to go through a little bit more—because you've put, I think, probably a record number of private members' business on the order paper in the last number of years, so I'd just like to talk to you a little bit more about those.

Mr. Randy Hillier: Well, I think with respect to private members' business maybe I'll start by saying that two or three weeks ago—again, I don't think my thoughts and views are unique and separate from all others. I think they're shared by, if not all, a great many. It was interesting that a couple of weeks ago when I was driving to Toronto on a Sunday afternoon, I was listening to CBC Radio, and trust me, I do listen to CBC Radio.

Interjection.

Mr. Randy Hillier: I just don't like their television programming. But anyway, Rex Murphy was doing his Cross Country Checkup from 4 o'clock to 6—

Ms. Lisa MacLeod: May I just interrupt? I'm sure you like watching the Senators score over the Habs. I'm sure you—

Interjections.

Mr. Randy Hillier: As I was listening to that show, which is a national call-in radio talk show hosted by Rex Murphy, our former Speaker, Steve Peters, came on. You can get this on podcast as well. The premise of this show

was the recent troubles that the federal House of Commons had experienced with members being able to speak to standing orders and whatnot. But Speaker Peters had an interesting perspective because of course he sat in opposition for a number of years, he sat as a minister for a number of years, and he was also a Speaker of the House, so it's a perspective that few of us would ever get to actually have. His main element in that call-in show was to strengthen individual members and their ability to scrutinize and give voice to their constituents.

If you take a look at the stats that are in the book, we've seen a diminishing role—adoption of private members' business. I think we're down to about 6% of private members' bills that have been adopted as compared to—and this is not a reflection of Conservative or Liberal, but in the Harris term there was, I believe, 8% of private members' bills. So not a great deal of difference, but look at it in historical terms and just what private members' business has done in the past.

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Probably the greatest example of private members' business was Wilberforce in the repeal of slavery in the 1800s in the UK. Just a dogged determination by a private member resulted in the repeal of slavery eventually throughout the Commonwealth.

Also in the UK—well, bringing it back closer to home, the reason why we have no smoking in federal government buildings is due to a private member's bill adopted in 1988 federally. So we can see we've moved, in my view, from very substantive actions by the private member to where we're now typically introducing proclamation day bills.

Ms. Lisa MacLeod: We looked—oh, sorry.

The Chair (Mr. Garfield Dunlop): No, go ahead.

Ms. Lisa MacLeod: Just as a follow-up, we reviewed several different assemblies—Saskatchewan, Alberta; we looked at the United Kingdom, we looked at Scotland—on a variety of different ways private members' business is determined and how it moves forward. Was there any particular jurisdiction that you—actually, we looked at the federal House as well. Was there any jurisdiction that you sort of reviewed during your research that actually spoke to you as a private member, and you said, "Oh, wow. They're doing it right"?

Mr. Randy Hillier: Well, one of the problems, of course, is our actions in the House are guided not typically by one standing order but by the aggregate of our standing orders. These little what may appear as nuances or subtle differences in their standing orders can, of course, have a very significant impact on how people actually conduct themselves.

I was not looking at reviewing other standing orders. I wasn't looking at the totality, but what do other Legislatures do that remedy a problem that I feel that we have that would also fit in with our present and existing standing orders, so that it would not have unforeseen negative consequences or those unintended consequences. It was very much cherry-picking through the various standing orders, and then evaluating how they

would fit in with our conduct in the rest of our standing orders.

Ms. Lisa MacLeod: Thanks, Randy.

The Chair (Mr. Garfield Dunlop): Randy, we have a question from Steve, and then from Gilles.

Steve—

Mr. Steve Clark: Thanks, Chair. First of all, I also want to join with my colleague in thanking you for putting this package together. I think all of us who were members of this committee before the House prorogued went through a lot of time and effort to review the standing orders.

I didn't feel, based on some of the delegations that appeared before us and also via teleconference, that we really got down to the level that we needed to get down to. I think we had some consensus on some small items. We couldn't decide, I believe, on standing order changes that we wanted to go forward with on a provisional basis. But I agree with my colleague that regardless of how members may feel about your individual recommendations, we should have a motion go forward as she suggested.

I do—and I've spoken to you about this before—want to say that I think on the very last recommendation, which was discussed on and off in this committee, about online access to the Legislature—I think it came as a surprise to some of the members of this committee that room 151 was available to stream committees. I remember sitting on a committee with you and being a bit frustrated that there was this reluctance, unless committee members asked to have our proceedings streamed online. I do believe that there are costs. First of all, I believe that's been remedied, that any committee that now is in the Amethyst Room is streamed live. I believe that the costing from broadcast services is available in one form. It may not be in a very glossy form like you've put your recommendations in, but I believe that some of those costs are available or could be brought to this committee on how to make these other rooms available to be streamed live when our committees meet.

I also believe—because I brought it up; I think it was actually in the previous legislative committee in the previous Parliament—that there are other provinces that archive the committee's schedule and the committee meetings online so that citizens can view them.

I know at the time the Clerk had talked about changes to the website. Changes have been made. We are able to have our proceedings in the House streamed live, and there is some archiving of questions in question period.

So I really do believe—and I believe you mentioned it, through you, Chair, to the Clerk at the last committee meeting—that broadcast services is part of this committee. So I think we should have an annual review even though the annual review is a bit of a joke, because I know we don't do it on an annual basis. But I believe we should have them come in, and bring you in as well, to discuss what we could do to have access.

I also want to speak to e-petitions because it's staring me right in the face. I've also had chats with the Clerk. I

was very impressed with the delegation we had via teleconference from the UK and what they did. I believe that our colleagues in Quebec do the same thing. I think there is a report we should get on e-petitions. Again, if members are worried, we could make a decision to do something on a provisional basis, but I do think we need to move forward with some of these recommendations.

I've told the member for Lanark-Frontenac-Lennox and Addington that there are some of his motions that I would have amendments for. I think he appreciates that we all have some suggestions. But I go back to someone he just quoted, and I'll finish, Chair, with Steve Peters, the former Speaker. He used to say over and over again—and I was a new member at the time—that members of the Legislature need to decide whether they want to take back the House and make some amendments that make all of us, all 107 members, more relevant, being able to stand up for our constituents on a consistent basis in the House. I think that's why the review of the standing orders is so important.

I want to thank you for putting these to paper, and again, I hope that members of the committee will allow us to move forward with our work. This is in our committee's mandate and I think we should get back to review those standing orders. Thank you, Chair.

The Chair (Mr. Garfield Dunlop): Thanks, Steve.

Do you have any comments back, Randy, before I go to Gilles?

Mr. Randy Hillier: Yes, thank you very much, Steve.

I guess a couple of things I want to say. We can stream our committees; I've done it when I was in the private bills and regs committee. We streamed the Dog Owners' Liability Act in committee hearings, and there was tremendous, tremendous participation. As well with the e-petitions, the most recent petition I've put up on my website is for Lyme disease awareness. Thousands of people have responded.

I guess the point that I'm making here is that it breathes some life into people, that there is an outlet for their interests and their concerns to be heard. I think that's really the essence of it.

I don't think it's a case of taking back the House; I think it's just recognizing that government has a role. That government role cannot be unduly interfered with, but private members have a role, and private members cannot be unduly interfered with as well. I don't think it's one gains at the other's expense; I think we can ensure the government's agenda can be not unduly restricted by having scrutiny by each one of us. I don't believe there's anything in this package that would interfere in any manner with the government completing their agenda in any session. So thank you very much.

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The Chair (Mr. Garfield Dunlop): Thanks, Randy. Now to Gilles. Have you got some comments, Gilles?

Mr. Gilles Bisson: Yes, just a couple of things. First of all, Randy, thanks. You're obviously not the only MPP over the years who has felt that there needs to be a change to the standing orders in order to allow members

to have a little bit more individuality and the ability to push the envelope on issues that we feel strongly about. You're right; private members' bills have been used in the past quite effectively to affect public policy and that's, I guess, a good thing. But the bad thing is that they're few and far between, not because members aren't trying but because in the end the government has to grab the bill, rewrite the bill, put it in their own name and then reintroduce it, normally, to get things done, such as we're seeing now with France Gélinas with the tanning industry legislation and others. That being said, I think this is quite helpful.

The difficulty we have—and it's part of what you have within your report—is that this committee could report back whatever it wants as far as changes of standing orders, but unless the government House leader is prepared to stand and move a motion in the House, it's a bit of a moot point. That's been the problem in this Parliament. Even though there was a really sincere conversation, I thought, on behalf of what this committee was trying to do as far as changing the standing orders, members on all sides, I thought, brought to the table some good ideas. I don't think we finished our work; we still had work to do. We weren't at the point of actually reporting. Just to be clear, there were still a lot of things that we had to work on. It became clearer and clearer as we went on that the government was not prepared to move such a motion should this committee go back and say: "Here are our recommendations as far as changes to the standing orders," because it's never in the interest of the party in power to limit its ability to do whatever it's got to do with whatever authority it's got. That has been, I think, the frustrating part for all of us.

I want to speak to a couple of the points that you raised because I think they're important. Notice that I've been on the bandwagon for a long time—and I'm glad you're there with me, along with Ms. MacLeod and others—on the issue of delegated authority. The Legislature has its role and the executive has its role. When we get into a situation where the executive is essentially, more and more, taking over the role of what the Legislature should be doing, I think we're in deep trouble. That's on the question of regulation. I'm a firm believer that government should draft a bill and intend what they want in the bill, and very little should be left to regulation.

If you do have regulation, then we need to have a regulatory process that allows a committee, either this one or regs and private bills, whatever we would decide, the ability to—for example, you draft a bill and let's say something is left to regulation, a planning manual when it comes to a development in a municipality, something very technical. Once that is drafted and before it's enacted it would have to come back to a committee to be approved, because I think if the Legislature says we want to pass a bill and it requires some regulation, this Legislature needs to maintain some sort of ability to vet whatever those regulations are before they're enacted.

I would argue that there's a two-step process that's needed—actually, three steps. One, you delegate very

little to regulation, but where you do, when cabinet goes off and gives a ministry the ability to go out and write the regulation, the regulation cannot be enacted until such time that it comes back to a committee of the Legislature and there's at least a vote at the committee level in order to enact those regulations, if not a recommendation back to the House and a vote in the House.

Where regulations are changed thereafter—because here's the problem: The House may approve a regulation under that scenario I just said. The government may run with that particular regulation for a period of time, but then all of a sudden decide to change it. There needs to be a mechanism so they can't do that. It has to come back to us because the intent of the Legislature on passing the bill was that the reg was X and now the government is trying to make it Y.

A good example is when the Conservatives were in power. They passed legislation that said there has to be a referendum if you're going to have a casino in a community. I remember. I was there. I voted on that. It was really clear what we were voting on. We wanted to have a referendum should a municipality decide to go the route of the casino. There would have to be a referendum in that community. Everybody in the House knew what we were voting for. The government changed the regulation—the Liberals, in this case, when they came into power—so that there no longer needs to be a regulation, just a consultation with the municipal council. That was not the intent of the Legislature, aside from the policy. I think we, as legislators, get ourselves in a lot of trouble when we delegate our authority to cabinet.

I just want to echo in on that particular issue, but I'll just end on this: You have a lot of good ideas here, a lot of which have been raised by a number of members of this committee and members who have sat here before. I would be uncomfortable passing just these ideas and not really trying to do the work that we should be doing, which is looking at the standing orders and the more holistic approach of saying, "Okay, let's deal with private members." It's not just Randy Hillier, but it's the members of the assembly and members of this committee that put that recommendation together.

I think this is good information, and it builds on what we've already done. I would urge this committee to continue the work that we had started last year.

The Chair (Mr. Garfield Dunlop): Okay, Randy, do you have any feedback to that?

Mr. Randy Hillier: Yes, thank you very much, Gilles. I don't think there's any disagreement on the regulations. I will say that in an ideal, perfect world there would be no regulations; the legislation would encapsulate all component parts, something like our Elections Act. The Elections Act does not provide—

Mr. Gilles Bisson: But just on a point of order, that used to be the case.

Mr. Randy Hillier: Yes, but it's not my desire to infringe upon government's authority or their jurisdiction. I think we often—and not just this assembly; I think it's prevalent within society that we often do not improve ourselves because the improvement is not perfect.

That's not the way life is. We improve ourselves by little steps. If I'm overweight, I don't lose 100 pounds in one day. I lose it over a period of time, and that's the way improvements in our steps towards progress are achieved, Gilles, not a whole bundle. If we're waiting to make it perfect, where we'll have consensus from everybody on everything, I think we sentence ourselves to mediocrity in most cases.

If there is agreement on one element or two elements, why not take that journey and that step forward on the path to improvement? That would be my view. I just see it too often in society at large. Thank you very much.

The Chair (Mr. Garfield Dunlop): Cindy, you have a question?

Ms. Cindy Forster: Yes, a question and a couple of comments.

The Chair (Mr. Garfield Dunlop): Sure, go ahead.

Ms. Cindy Forster: I thank you as well, Randy, for actually putting this together. I had a quick read of it, but as it's a big document, I haven't had an opportunity to review it in its entirety. There are some areas where I probably have an agreement with you. There are some areas where I maybe don't and would like to put some amendments to it, but I think that we can't look at this document without looking at the entire standing orders, because I've been reviewing the standing orders for the last 18 or 19 months, and there are lots of places where if you change one thing, it will wind up contradicting something else. I think we really have to look at it as a whole as opposed to independently.

Mr. Randy Hillier: No, I agree. Maybe I didn't state it clearly. We can all find different faults with every portion of the standing orders. I don't think it's conceivable that we would all agree on everybody's recognition of imperfections in the standing orders.

When I put this together, I was looking at specifically: Would this change have a negative effect somewhere else within our practices and procedures in the House? I'm very confident in saying that there would not be. In a few cases, I did provide for options, for example, where the last two weeks of the House be reserved to dispense at night sittings for private members' business. Or another option that I think would work is the model of the UK Parliament, where there's a backbench committee for dispensing.

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I don't expect this small group of nine to have full agreement on every component, but if there is agreement on some components—and we must remember that the standing orders are not set in stone. If, down the road, it's viewed that it didn't work out or that there was some unintended consequence, it can be changed again. But I'm of the view that tabling electronic petitions would not be harmful in any manner. Thank you very much, Cindy.

The Chair (Mr. Garfield Dunlop): Any questions? Yes, Bas? Oh, I'm sorry. Cindy, then to Bas.

Ms. Cindy Forster: Just in response to that, Randy, I certainly would like to have the opportunity to go back

and review this with our caucus and then bring it back to this committee for further discussion.

Mr. Randy Hillier: Yes, and to everybody on this committee and all members of the House, if at any time somebody wants to have a conversation or discussion on any of these components, I'd be more than happy to meet with caucuses or meet with individuals to discuss those.

The Chair (Mr. Garfield Dunlop): Thanks, Cindy. Thanks, Randy. Bas, you had a question?

Mr. Bas Balkissoon: Yes, I just had one question that I would like to hear Randy's comments on. You talk about regulations and that when it goes to committee, right now there's a test of a bunch of guidelines.

Mr. Randy Hillier: Nine guidelines.

Mr. Bas Balkissoon: Two important ones, in your mind—or the 10th one is missing. If I could read it, it's one that was left out. It was that regulations should not "make any unusual or unexpected use of delegated power."

Mr. Randy Hillier: Right.

Mr. Bas Balkissoon: If that 10th one was adopted—I mean, it was not, back in 1978, and I don't know who was in government. Maybe it was a Bill Davis government or something; who knows? What do you see as the benefit of that 10th guideline?

Mr. Randy Hillier: Well, I could give you a number of examples, but I'll start off by saying that it's a very objective reading of that royal commission that created the Standing Committee on Regulations and where those nine criteria are directly lifted from. You'll see that the 10th criterion is in there as well. There's significant recognition that it was probably a clerical error that dropped off the 10th one. There is—

Mr. Bas Balkissoon: But I'm wondering why—

Mr. Randy Hillier: Where it would be of value is—things like the G20 regulation would come to mind. Was that an unexpected delegation of authority?

Some members may not want to hear this, but a thing that comes to my mind is the Ornge regulation, the original Ornge regulation. Because of the gravity of that regulation—it was a very brief regulation that created Ornge—was that an unexpected or undue delegation of power? I would say that because of the lack of detail in the regulation, it very well could have been, could have met that test. There's a couple.

Mr. Bas Balkissoon: But it would have passed the test of—

Mr. Randy Hillier: It passed the present guidelines, but if—

Mr. Bas Balkissoon: I'll tell you why I asked this question. My understanding—I hope I'm correct; maybe somebody here will correct me—is that regulations are stuff proposed by the minister and the ministry, but they are crafted with the assistance and guidance of the Legislative Assembly counsel.

Mr. Randy Hillier: Sure. Yes.

Mr. Bas Balkissoon: So they are also looking at it from two legal standpoints: the ministry legal request and the Legislative Assembly counsel—who is supposed to be neutral—are reviewing it before it—

Mr. Randy Hillier: Absolutely. So this would be one additional test that they would have to—that the regulation would have to measure up to from the legal sense.

Mr. Bas Balkissoon: But they're already looking at that, because they have to craft the regulation that it satisfies the nine tests, plus it satisfies the bill that was debated by the Legislature and adopted.

Mr. Randy Hillier: Yes—but maybe I should be clearer. At the present time, a regulation that is created does not have to meet the undue or unexpected delegation-of-powers test. It has to meet the test, does the parent legislation grant that authority to do it? Absolutely. But I think what's important, in my view, is you can look at things from a legal perspective, and that's what our leg counsel does—

Mr. Bas Balkissoon: That's what happens in all cases.

Mr. Randy Hillier: And it has to be done. But we also have to look at it from our political perspective as well. Something may be legal; it doesn't mean that it's actually going to be just or implemented in a fair fashion. I think that's our role, Bas: that we put our eyes to the regulation and say, "How does that cause—does it cause undue difficulty or undue problems or unforeseen problems?"

I don't know if you have ever read the G20 regulation, for example—and that's one that just comes to my mind, because a number of the regulations that are adopted each year or are passed each year and that are referred to the regs committee require further amendment under the nine existing guidelines.

People aren't perfect. Even our leg counsels and drafters are not perfect. But what is important is that when that regulation is drafted up legally, it does come before some accountable eyes, and the accountable eyes are us.

Mr. Bas Balkissoon: So you're saying you want the regulations and private bills committee to be the judge of "unusual" and "unexpected"?

Mr. Randy Hillier: Well, the regs committee, like most committees, has no power of compelling. We have powers of recommendation only. At the present time, we've just finished up our 2011 report on regs this morning. It's still not quite complete, but the regs committee found about 11 regulations from 2010 that did not meet the test—the nine criteria—and provided recommendations to various ministers that they be amended. In most cases, those ministries have, indeed, amended those regulations under the nine criteria. But the regs committee has no power to enforce.

Mr. Bas Balkissoon: You didn't quite answer the question from Ms. MacLeod that I understood clearly. She did say, have you found a model for private members' public business that you would recommend that be looked at first-hand or as a first priority? I just heard a comment about the UK. But in our previous work, we looked at the UK. I think we looked at Australia, we looked at Scotland, we looked at Alberta—

Mr. Steve Clark: The House of Commons.

Mr. Bas Balkissoon:—and the House of Commons in Ottawa, and we didn't come up with an agreement amongst us which way to proceed.

Mr. Randy Hillier: They all have merit.

Mr. Bas Balkissoon: Right. So the thing is, can you define any one of these that you like, or the merits of any one that you like?

Mr. Randy Hillier: Well, my view was, Bas—Alberta has, in my view, a better mechanism than what we have here. The UK has a better mechanism; Scotland has a better mechanism. Is any one of them perfect and ideal, or that will suit the desires of all members of this House? I don't believe that you can pin any one as being perfect.

I've suggested that, at the present time, it's already in the standing orders that we're allowed to be called for night sittings in the final two weeks of the session, but that's only at the call of government to dispense with government business. I've suggested that if, in the final two weeks of a session, there's private members' business that has not been dispensed with, let's use that allotment for private members.

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Mr. Bas Balkissoon: Okay, so one last question—

Mr. Randy Hillier: You see where I'm going.

Mr. Bas Balkissoon: Yes, I see where you're going. I've got one last question. If we proceed with what you're saying, which is that private members' bills should get time in the House, be debated at third reading, then be adopted and become law—we have a very vague policy here in terms of private members' bills, that private members' legislation should not have any impact that is of a financial nature.

I will tell you that in the six years that I have been here, I've seen several private members' bills debated and adopted in second reading that, if they got adopted in third reading, would have a huge financial impact on the government that has not been assessed. If we're to move in your direction, how does the government deal with these private members' bills which have unexpected expenditures that were not planned in the budget process?

I'll give you an example of one of them, so that you'll understand. When we returned after the election, there was a private member's bill on the energy HST.

Mr. Randy Hillier: Yes.

Mr. Bas Balkissoon: Now, if that was adopted, that has a financial impact, but it was a bill that was allowed to get on the table and be debated. That was a huge revenue loss to the government. I've seen other similar bills where it's just written in such a way that it passes the test of the vague policy we have today. I'd love to hear your opinion on that one.

Mr. Randy Hillier: I agree, I concur. I am of the view that if there was a greater regard for private members' business, it would invariably, inherently apply pressure on the Clerk's office to be more robust in following that particular part of it—

Mr. Bas Balkissoon: I don't think you'd be able to do it adequately.

Mr. Randy Hillier: Bear with me. Right now the standing orders do state that there cannot be a financial impact, and that's pretty much standard throughout Westminster Parliaments, that money bills that impact the treasury are not for private members. That has been safeguarded for the government.

What I think we all recognize—the Clerk's office as well—is that right now the government monopoly on calling bills for third reading is not going to allow that to happen, and that we can play a little bit looser and have a little bit greater latitude on what bills get introduced because we know it's not going to happen.

I'll give you a couple of examples. Kim Craitor's bill has been introduced in six consecutive sessions. This is not a money bill. It has passed reading five of those six times, but it's never been actually studied by a committee. That's Kim's bill, but it has also happened to Ernie Hardeman's carbon monoxide bill, and it's also happened with Rosie Marchese's bill on the condominiums. We cannot allow a private member's efforts to die without actually killing it.

Mr. Bas Balkissoon: See, I would disagree with you on Rosie's bill, because Rosie's bill requires administrative changes. There's a huge cost, so the government should have—

Mr. Randy Hillier: If so, I concur, Bas, but—

Mr. Bas Balkissoon:—and Mr. Craitor's bill is the same thing.

Mr. Randy Hillier: Oh?

Mr. Bas Balkissoon: It has a financial impact on the administration because you have to administer those things that he has requested, which will mean a change in the administrative procedures within the government. It requires one step more if we want to fulfill what you have as a will—I think there are other members, but I think we have to think about it broadly.

Mr. Randy Hillier: But, you know—

Mr. Bas Balkissoon: I will now pass to my other colleagues, because—

Mr. Randy Hillier: But let me just finish off, because I think there's agreement there on a number of things. There is no bill that could ever be passed that has a zero cost to the treasury. If we pass a proclamation bill, there is a cost; it's very minimal, but let me just—

Mr. Bas Balkissoon: I would think the government, be it anybody's government, should still have an opportunity of some type to say, "Okay, this is fine. We will do it," but have a way to plan when to do it so that it doesn't become automatic.

Mr. Randy Hillier: I'll just finish off. You'll probably want to vote in favour of my private member's bill that I introduced last session, which I'll be reintroducing, that makes it mandatory that all bills be costed prior to second reading—government and private members' bills.

Mr. Bas Balkissoon: I don't know if my colleagues have questions.

The Chair (Mr. Garfield Dunlop): Ms. MacLeod?

Mr. Steve Clark: Want to go right to third reading on that one?

Mr. Bas Balkissoon: Sorry?

The Chair (Mr. Garfield Dunlop): Ms. MacLeod has the next question.

Ms. Lisa MacLeod: Thanks, Chair, and thanks again, Mr. Hillier. I think you've done a really good job of putting ideas out there, whether people agree with them or not; I think that this has been a really good example of somebody coming forward with substantive ideas on how to improve the way we do business on the floor of the assembly. I think both Mr. Bisson and Mr. Balkissoon, from two different political parties than the one you and I sit in, have recognized that we could be doing a little bit more.

To Mr. Balkissoon's point, our colleague Michael Harris, from Kitchener-Conestoga, actually did put forward his own idea of how to deal with all parliamentary bills, whether it was private members' or government bills, and what the cost would be. I think that would fit nicely with what you're talking about, Mr. Hillier, in making sure that there was a costing. I won't speak for the MPP from Leeds-Grenville, but I will reiterate something he has said in the past: If there were a committee making the determinations on what bills finally go through, then there's an opportunity for costing there as well.

We've been talking about this for well over a year. I think we're in a position, finally, to put forward some ideas to the assembly, because it's clear that there are challenges that we face. Mr. Hillier has brought forward a package.

What I would like to see from the Clerk, if it's possible, are these recommendations married with the recommendations that we had come forward with, those that had consensus and those that didn't, and then perhaps inviting MPP Harris in to talk about his idea on the standing order—he actually had a private member's bill redefining that—and again invite Mr. Tabuns, who may have some ideas as well, and then actually vote on them one by one. We can have the discussion, but I think at some point, we do have an obligation to put some of these ideas forward.

In terms of Mr. Hillier's package, I think he's put forward a number of substantive ideas that I think reflect where we are as legislators and where he has been as a legislator. I think he makes a very valid point about undue delegation of power in regulations. It's something I've heard time and again from the member from Timmins—

The Chair (Mr. Garfield Dunlop): James Bay.

Ms. Lisa MacLeod: Timmins-James Bay. I think that we should have that conversation, we should do it one by one, and we should do it in the most timely fashion available to us given the minority situation that we are in. I think that it would be a real missed opportunity if private members from all three political parties didn't seize this opportunity.

Again, I don't have a lot of questions because I've talked to the member from Lanark many times about this, but I want to, just one more time, thank him. I don't think

we have seen a member of this assembly, regardless of political party—of course, you're from eastern Ontario so you're a special breed, just like the other two here, me and Mr. Clark—put forward such a thoughtful piece of documentation for us. You've put your heart into this as an MPP since you were elected in 2007. This is thoughtful. This is not partisan. It is not ideological. It is about process, and freeing up the process so people, regardless of what their views are when they are sent to this place, are able to empower their constituents and do their job.

You can comment if you like, Mr. Hillier. I want to again say thank you and how proud I am that we're colleagues, and I want to say thanks again to your staff, who I know probably did the photocopying and the stapling and a little bit of research behind it.

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Mr. Randy Hillier: Thank you very, very much.

The Chair (Mr. Garfield Dunlop): Okay. I think what I'd like to do now is go to the Clerk.

Did you have any questions, Bas?

Mr. Bas Balkissoon: I just want some clarification.

Ms. Lisa MacLeod: Never.

The Chair (Mr. Garfield Dunlop): I think that's what I'm going to ask the Clerk for now.

Mr. Bas Balkissoon: One minute I'm hearing we're doing something, and the other minute—

The Chair (Mr. Garfield Dunlop): No, I'm going to ask—

Mr. Bas Balkissoon: —we just keep it as “committees work on an ongoing basis.” I need clarification.

The Chair (Mr. Garfield Dunlop): I'm going to ask the Clerk right now to talk to us about, first of all, going forward with standing order changes, because we did make a decision last summer that we would do the three—we made three recommendations to the House leaders, and we haven't heard back from those. Now I'm asking: Will we go forward with the standing orders? We obviously can.

One of the ones, right off the bat, that Mr. Clark had recommended was the broadcast review, and I'm asking the committee: Would you like to move forward with these things now?

Mr. Bas Balkissoon: I've done the broadcast review, and it's a great idea to do it again. It should be something done on a regular basis.

The Chair (Mr. Garfield Dunlop): So we have a consensus to start on that one.

Mr. Bas Balkissoon: Yes.

The Chair (Mr. Garfield Dunlop): Now I'm going to ask the Clerk if he'd like to—

Mr. Mike Colle: I don't have any information on that broadcast review.

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Mike Colle: I don't have any information on it. I don't know what you're talking about.

The Chair (Mr. Garfield Dunlop): We didn't either.

Interjections.

The Clerk of the Committee (Mr. Trevor Day): Basically where we're at now is, the committee has to

determine their own agenda moving forward. What do you want to do first? What do you want to do next?

What we have before us in terms of our mandate is, one, as always, the standing order review that we're able to do. One is a broadcast and recording review, which is meant to be an annual review. The Ombudsman's reports are in there, but it sounds like the stuff we have now is either standing order review or the broadcast and recording review. We also have a bill before us, but it's up to the committee to let us know what direction you want to go in now in terms of—

The Chair (Mr. Garfield Dunlop): Ms. MacLeod?

Ms. Lisa MacLeod: Obviously, I think any bill that is referred to this committee we should actually start moving on, so that's number one. Number two, we were referred, in the last session of this Parliament, to look at the standing orders. We do have some substantive ideas before us. I think that we should actually move toward a committee report. I think that the point has well passed of having a non-binding decision by the House leaders. I think a report or a dissenting report or what have you should be the focus of this committee.

I'm just simply going to say that I think we need an amalgamation—and this is a starting point—of the areas we discussed in the last session, as well as Mr. Hillier's notions that he has put before us today, as our starting point for that committee. I think that then we can have the individual votes on those standing order changes, whether or not they're agreed upon or what have you. I think that in order for us to do our job, we actually have to start doing—we've done a lot of work; I don't want to make that suggestion, that we weren't working. We're working. It's very technical stuff that we're dealing with, technical issues, but at the same time, I'd like to see us produce something before the next election, whenever that might be.

The Clerk of the Committee (Mr. Trevor Day): If I'm hearing correctly, you're looking for something in the neighbourhood of a draft report that will start the report-writing phase of the review to move forward and have something to table with the House.

Ms. Lisa MacLeod: Yes.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Balkissoon.

Mr. Bas Balkissoon: Just a clarification from the Clerk: The work we did before the House prorogued—what happens? Is that dead and it has to be restarted? Do we have to ask the House leaders' permission to continue—

The Clerk of the Committee (Mr. Trevor Day): No. Within our permanent mandate for this committee, we can do standing order reviews.

Mr. Bas Balkissoon: But are we doing the same job we were doing before, which was the full standing order review that the House had ordered?

The Clerk of the Committee (Mr. Trevor Day): The mandate says that, at any point, this committee can review the procedures of the House and the standing orders.

Mr. Bas Balkissoon: So now we could be selective.

The Chair (Mr. Garfield Dunlop): Yes—

Mr. Bas Balkissoon: Because the order we got from the three House leaders was that everything was on the table.

The Clerk of the Committee (Mr. Trevor Day): Everything is still on the table.

Mr. Bas Balkissoon: I just need to know where we're going.

The Chair (Mr. Garfield Dunlop): Well, that's what we're trying to determine right now.

The Clerk of the Committee (Mr. Trevor Day): The only difference between what we're doing now and what we were doing then is that then, it was a case of you have to do this first before you do anything else. Now we are free to choose our own agenda.

Mr. Bas Balkissoon: All right. I think Mr. Clark's request for the broadcast review is important because there were enough members complaining about the Internet access to some of the committee rooms. We should know the status of where that is.

The Chair (Mr. Garfield Dunlop): Yes, okay. Steve?

Mr. Steve Clark: I agree with Mr. Balkissoon. I think that we need to move forward on that. I think the committee needs to decide, because we rushed to meet the deadline. Let's remember: We rushed to try to meet the deadline because the committee had a time period set for our review. The only items of consensus that we had at the time were the Speaker deciding on accessibility issues, the issue around opposition days and for the party that tables the opposition day to have a right for rebuttal at the end and also whether it be a deferrable vote. The only other issue that we actually had consensus on was moving question period and routine proceedings back together.

The issue of whether we do a provisional change on morning or afternoon was set aside for study, as were the other items that the Clerk mentioned: the proclamations, use of the grounds, I think Mr. Bisson had some desire to discuss ribbons and other paraphernalia that we put on ourselves during our debates, and then the parliamentary officers committee that the Clerk mentioned earlier.

Then, my notes indicate that Mr. Bisson had tabled a delegated authority, standing order 126 in committees. The notes that I made on August 29 indicated that he was bringing back a proposal. I don't want to speak for him—

Mr. Bas Balkissoon: We didn't see it.

Mr. Steve Clark: —but that's where we were when we dissolved the review. So we need to decide, now that we have this very wonderful non-partisan green-coloured document, how it fits into our debate and we move forward. I think we need to move forward and recommend some changes to the House.

The Chair (Mr. Garfield Dunlop): Okay. Cindy?

Ms. Cindy Forster: Yes, so I don't know that I'm in agreement that this [*inaudible*].

The Chair (Mr. Garfield Dunlop): No, we're not saying that.

Mr. Bas Balkissoon: It should just be received as part of it.

Ms. Cindy Forster: We're going to just receive this as information?

The Chair (Mr. Garfield Dunlop): Yes.

Ms. Lisa MacLeod: Chair?

The Chair (Mr. Garfield Dunlop): Yes, after she's done.

Ms. Cindy Forster: I'm not prepared to agree that this document only, and whatever was discussed in the last committee, forms the basis for any further discussion.

The Chair (Mr. Garfield Dunlop): We're not suggesting that right now. That's a document—

Ms. Cindy Forster: Well, that's what I heard. It would form the starting point for any further discussion.

The Chair (Mr. Garfield Dunlop): Well, yes, and you can take any one of those points and that starting point, if we come back with a report from the Clerk, and turn it down. This committee can turn that part down, or they can advance it.

Interjections.

The Chair (Mr. Garfield Dunlop): Lisa, then to Bill.

Mr. Mike Colle: We're supposed to have a rotation.

Ms. Lisa MacLeod: We don't do that here.

Mr. Mike Colle: I've been trying to get on the speakers' list—

The Chair (Mr. Garfield Dunlop): I've been looking at you all afternoon. Would you like to go now?

Mr. Mike Colle: Yes.

The Chair (Mr. Garfield Dunlop): Let's go to you now, then.

Mr. Mike Colle: I just want to get some clarity here, because I'm a new member of this committee. I just want to see where we're at, so we've got sort of a path to where we're going. I'd just like to get that review of some of the things—broadcast and these other things. I'd like—

Mr. Steve Clark: The binder from last committee.

Mr. Mike Colle: Okay. Anyway, we get a lot of binders and a lot of paper. So I'd just like to get that overview, first of all—just a synopsis. Then, what I'd like to do is to see what Mr. Hillier's presenting. I'd like that to be brought in to see where it fits in and how we could fit it in so that we can then proceed as a committee, so I can clearly understand what our next step is. That's all I'm asking for, because it's just not clear to me in terms of what our mandate is, what we're going forward with, what was decreed in the past and where we're going to the next step. That's what I want clearly stated.

The Chair (Mr. Garfield Dunlop): Bill?

Mr. Bill Mauro: As Mr. Colle has just said, I think we're sort of on the same page here. As a new member to the committee, I guess I'm hearing a few different things. At the same time, while I'm trying to respect—well, I will respect, clearly—the work that has been done by the committee previously, and Mr. Clark outlined a few things that he said there was consensus on, so I guess that—

The Chair (Mr. Garfield Dunlop): Well, that consensus was sent forward to the House leaders.

Mr. Bill Mauro: That's gone?

The Chair (Mr. Garfield Dunlop): Yes, it's gone.

Mr. Bas Balkissoon: And it hasn't come back.

Mr. Bill Mauro: So we're not even—okay. So that's good to know. That's off the table. But then, I think there are two pieces going forward, as I understand it. One, Ms. Forster has raised the issue that, I think, is suggesting that the work of the committee should be a review of the standing orders in their entirety. That seems to make sense. Then, there's the issue of Mr. Hillier's piece that is brought in as relatively new, or is new and was not part of any discussion by the committee previously. Is that fair to say?

The Chair (Mr. Garfield Dunlop): No. It's the first time today.

Mr. Bill Mauro: Okay. So that's the first time today. I just wanted to be clear, as a new member, that I was not going to be looked to to vote on something that was dealt with by the committee previously but had not yet been voted on. So that's not what's happening here today.

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Then, to get to this piece, it sounds like there's consensus on reviewing the standing orders, maybe in their entirety, so we'll set that aside for a second. I think the only thing we're left with is how we're going to deal with Mr. Hillier's piece that is here today.

I guess I would say—and it's obvious to me, Randy, that you've done a tremendous amount of work here. You handed me this—well, you didn't hand it to me, but it came from one of the pages today in question period. You've clearly done a tremendous amount of work. Congratulations on that.

On its face there seems to be, to me, as a member—not as a Liberal or even as an MPP—a fair bit of room, potentially, to move some of these things forward, perhaps, but I think it's also fair to say that each member—well, perhaps not the members of your party but perhaps the third party and our party—might look for a bit more information on your individual pieces here.

I'm only raising this because it sounds to me like one of the members—Ms. MacLeod, to be fair—is trying to move these things forward today—

Interjection.

Mr. Bill Mauro: No? Okay, good.

Mr. Bas Balkissoon: No. That's what I just clarified.

Mr. Bill Mauro: No votes.

Ms. Lisa MacLeod: No. Maybe you could withdraw that, because that's not what I was trying to do at all.

Mr. Bill Mauro: Good. I'm happy to hear that, because there clearly would probably be a requirement that any of us would want to hear from other witnesses, perhaps, on what exactly the impact of some of these things would be before we went anywhere near the report-writing stage.

The reason I'm raising this issue is because the Clerk basically just said, three or four minutes ago, that he was under the impression that that's where we were moving,

so I just wanted to clarify that. I don't think that makes any sense. The Clerk basically just said that. I don't think I'm wrong in drawing that conclusion. It seemed to me where at least one member of the committee wanted to go, so I think that makes sense.

The Chair (Mr. Garfield Dunlop): Just make a comment at this point.

Mr. Bill Mauro: Sure, thank you, Chair. What I'm saying is that on Mr. Hillier's piece, if we're moving forward with it in any way, it sounds like the committee is going to want to call other witnesses, I would expect, to give their opinions on this and hear what they have to say in the proposals. That would be number one.

Ms. Forster's recommendation, I think, was that we would potentially be reviewing the standing orders in their entirety, and that seems to make sense to me as well.

The Chair (Mr. Garfield Dunlop): Okay, thank you. Ms. MacLeod?

Ms. Lisa MacLeod: Yes, there does seem to be some confusion; I apologize. Many of us have been sitting here for a long time reviewing all of this, and I think Bas is sort of with me on this—

Interjection.

Mr. Steve Clark: It's not a laughing matter.

Mr. Bas Balkissoon: I heard the word "adoption" so I thought she was moving adoption.

Ms. Lisa MacLeod: Basically what I was suggesting was that we actually develop a compendium of all the presentations and things that we have had consensus on in a report style similar to what we might have seen in a—

Interjection.

Ms. Lisa MacLeod: Just one second. Some of us have been members of public accounts, and when you get recommendations coming in, whether you agree with them or not, from a variety of different people who come in and say, "This should happen or that should happen," and the committee goes through it and decides what they support, I'm simply saying we need a starting point because we've been doing this for quite some time. We should have started a long time ago, but for reasons that are no fault of any single person in this room, we're sort of behind. I think it would be good to have those recommendations in front of us and we actually start report writing. I'd just invite members who may have been part of public accounts or other committee report writing before to go back to some of those ideas.

Steve is not joking. This is one of the binders. We've had a lot of presentations. I really do not want to see that work go by the wayside. It would be good to have all of those recommendations that we did previously have a consensus on, the ideas from Mr. Hillier and any other ideas that may come forward from the caucuses, and put that into one list. If people are uncomfortable calling it a report, that's fine by me too. You can call it a list, but I'd like to see them all together, grouped into where they would possibly change a standing order. At that point in time, we can start going through the list deciding what

we agree with and what we don't. If we come out with some consensus by the end of it, let's put that report forward to the House. If we don't, then everybody is entitled to put forward their own minority report, but at some point we're going to have to collate that information from the past year, and I don't think any of my colleagues that have been on this committee before would be opposed to that, simply because I think we're spending two or three hours in committee and we've been doing this since a year and a half ago. At some point, we're going to have to make sure that we're producing something for someone.

Anyway, in the meantime, I will address this: We do have a bill referred to this committee, and in the meantime, while this is sorted out—what we're going to do with all of the recommendations that are piling up—perhaps we should actually bring that bill forward.

Mr. Bas Balkissoon: Before we bring the bill forward, shouldn't we have a subcommittee to decide how to deal with the bill?

The Chair (Mr. Garfield Dunlop): We'll have to do that, yes.

Mr. Bas Balkissoon: Okay.

Ms. Lisa MacLeod: You and I can sit down at subcommittee.

Mr. Bas Balkissoon: Otherwise it will come here and we'll have to just go all over again.

The Chair (Mr. Garfield Dunlop): Okay, so I'm looking for direction, then, on how we continue over the next month or so. What are your suggestions right now, then?

Mr. Bill Mauro: I think it has been clarified for me. Ms. MacLeod wasn't talking about consensus items; those have been referred forward already from the previous committee's work. You're talking about recommendations that you think there may be consensus on, forming the basis of a report that comes back to all the committee members. That's in Mr. Clark's binder, apparently, including Mr. Hillier's stuff today, and then we begin dealing with that on a go-forward basis. That seems to be fine with me.

The Clerk of the Committee (Mr. Trevor Day): To clarify—sorry—the consensus items haven't gone anywhere. They're still here. What went forward to the House leaders was—we had a couple of draft House schedules that we sent off for further input.

Mr. Bill Mauro: Okay, but when I spoke previously, that was my concern, that as a new member of the committee, I might be looked to to vote on items that, you know—

The Clerk of the Committee (Mr. Trevor Day): We can put them back into a list.

Ms. Lisa MacLeod: That's what I was suggesting—

Mr. Bill Mauro: Yes, make them part of it; thank you.

Ms. Lisa MacLeod:—that the consensus items get back in, because they haven't gone anywhere.

The Clerk of the Committee (Mr. Trevor Day): If the committee decides that that's what they want to do, then that's it.

Mr. Bas Balkissoon: What would you like on the next agenda?

The Clerk of the Committee (Mr. Trevor Day): What do you want to do?

Ms. Lisa MacLeod: If there's agreement that we move forward with a list that's sort of a compendium of all of the various recommendations, as well as those issues that we had previously agreed to, so that we can actually meet on committee—perhaps if we do that the week after the break?

The Clerk of the Committee (Mr. Trevor Day): Okay, so what we'll do is we'll put together a list, including Mr. Hillier's stuff and stuff that the committee has looked at previously. We had some draft options, I think, that are in the later tabs in your binders—

Ms. Lisa MacLeod: Trevor, sorry, I hate to interrupt, but perhaps because we do have so many new members: If there was a recommendation that we had discussed previously, if you could put the background information—I only refer to the public accounts-type style of a report because I spent some time on public accounts; I found that easy, and it also gives you a little summary of where this idea came from, because as Bas and I pointed out, we have looked at a great deal of jurisdictions previously, and some very good ideas came forward.

The Chair (Mr. Garfield Dunlop): Okay, Bas has a question, and then Bill.

Mr. Bas Balkissoon: My question to you, Chair, is, the draft schedules went to the House leaders, and there was a reason for that. The reason was that a lot of our other discussions surrounded the outcome of a schedule.

The Chair (Mr. Garfield Dunlop): We were on a deadline.

Mr. Bas Balkissoon: Yes, and Mr. Hillier's recommendations in here also have a lot of issues to deal with schedules. I see that if we come back here and we continue, we'll still be in that logjam unless we get an answer from the House leaders, so it may require you to write the House leaders that we need them to do something with the schedules before we can move forward with more business, because I think that's the foundation of where we're going to go with any discussion, that schedule.

The Chair (Mr. Garfield Dunlop): Okay. Are you saying that—before the list comes out?

Mr. Bas Balkissoon: Well, we could continue to work, but I'm saying that if we don't get an answer from them, everything we discuss will be up in limbo.

The Chair (Mr. Garfield Dunlop): So we can write to the House leaders, then. Okay. Bill?

Mr. Bill Mauro: I'm fine, thank you.

The Chair (Mr. Garfield Dunlop): Okay. Yes, Steve?

Mr. Steve Clark: Again, I want to put my two cents in. I agree with Mr. Balkissoon that you should write the House leaders and that we should continue to compile the list and do our work. Again, I just want to reiterate to you that you should remind the House leaders that we could

also make decisions for schedule changes in the House on a provisional basis.

The Chair (Mr. Garfield Dunlop): Mr. Hillier?

Mr. Randy Hillier: Yes, I would like to not intrude in committee business, but I would ask one thing of the committee and maybe offer a thought, as well, to this committee. What I would ask first off is, over a year ago, the private bills and regulations committee passed a motion to adopt two changes to the standing orders, right? It was studied and discussed and well ventilated by the Standing Committee on Regulations and Private Bills. It's very focused strictly—a very narrow element of the standing orders. It would allow the standing committee to do a better job, and I would ask this committee to look upon the work of that other committee and either agree or disagree, but do something recognizing the work of that other standing committee of the House. I think it's clear in that request from regulations and private bills that the committee on the Legislative Assembly refer it to the House for adoption. So I would ask that first.

The Chair (Mr. Garfield Dunlop): We'll make that part of our list, then.

Mr. Randy Hillier: The other thing I would offer up as a comment—and I think it may help this committee sort its way through the mass of procedures and where to go through this maze—and that is just put a request out to all interested members of this assembly to come and offer up their thoughts or ideas on things that are presently before the committee or other changes to the standing orders. I put that out as a thought.

Thank you very much for allowing me to talk today.

The Chair (Mr. Garfield Dunlop): Thank you very much.

Any other comments, anyone? Okay.

The Clerk of the Committee (Mr. Trevor Day): Okay, so what I've got is, the week after constituency week, we're going to come back here. Hopefully, by that point we will have a list of some of the stuff we talked about before, whether it was agreed on or not; Mr. Hillier's stuff; the stuff that we did agree on but new members will have a chance to take a look at it. That's what we'll be coming forward with.

Is it okay, if the Clerk's office has any recommendations for standing order changes, that we throw it in as well? You can vote them down, it doesn't matter.

Ms. Lisa MacLeod: Bas, did you get that? The Clerk's office wants to know if they can add any standing order changes they may think are relevant to add to the package.

Mr. Bas Balkissoon: Sorry—

The Clerk of the Committee (Mr. Trevor Day): The list that we're coming back with—

Mr. Bas Balkissoon: Right.

The Clerk of the Committee (Mr. Trevor Day): Is it okay, if the Clerk's office has any potential recommendations for standing order changes—that we can put that into the mix and members will vote as they will? Anything else—

Mr. Bas Balkissoon: When you say “potential recommendations,” who is going to develop the recommendations?

The Clerk of the Committee (Mr. Trevor Day): The Clerk’s office.

Mr. Bas Balkissoon: I have a real problem with that.

Mr. Steve Clark: Why?

The Chair (Mr. Garfield Dunlop): Why? If the Clerk has suggested changes—

Mr. Bas Balkissoon: Oh, from the Clerk herself, for her area of responsibility?

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Bas Balkissoon: Okay. I thought you meant on what we’re discussing.

Mr. Steve Clark: The reason I like that is because I think the Clerk had mentioned at one of our previous meetings she had some thoughts on proclamations. I think with the whole e-petition stuff, the Clerk should have an opinion on that.

Mr. Bas Balkissoon: But then it shouldn’t be a recommendation. It should be input to the committee. The committee makes the recommendation.

The Clerk of the Committee (Mr. Trevor Day): I’m just saying, in this case—

Mr. Bas Balkissoon: She could give us a report. We will decide what to recommend.

The Chair (Mr. Garfield Dunlop): Yes, that’s the idea—

Mr. Bas Balkissoon: Okay.

The Chair (Mr. Garfield Dunlop): Okay. Anything else, anyone?

The Clerk of the Committee (Mr. Trevor Day): That’s it.

The Chair (Mr. Garfield Dunlop): Okay, we’re adjourned until the 28th?

The Clerk of the Committee (Mr. Trevor Day): Whatever that day is.

The Chair (Mr. Garfield Dunlop): The week after constit week, right? The Wednesday after constit week.

Mr. Steve Clark: The 29th, I believe.

The Chair (Mr. Garfield Dunlop): Okay, the meeting’s adjourned.

The committee adjourned at 1433.

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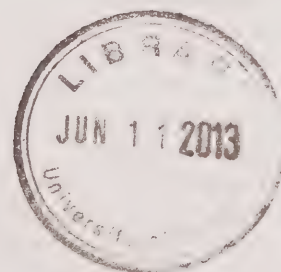
Mercredi 29 mai 2013

Standing Committee on the Legislative Assembly

Standing orders review

Comité permanent de l'Assemblée législative

Examen du Règlement



Chair: Garfield Dunlop
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STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 29 May 2013

Mercredi 29 mai 2013

The committee met at 1304 in committee room 1.

STANDING ORDERS REVIEW

The Chair (Mr. Garfield Dunlop): We'll call the meeting to order. The intent of the meeting today was to try to evaluate exactly where we are in terms of, with the end of the House schedule, whether or not members of the committee felt that if they preferred to sit on a bill or something—or even some changes-to-the-standing-orders type of meetings over the summer. That'll all be decided, of course, by the House leaders and at the will of the House. But we did want to bring everyone up to date. If you want to take some time to review this, this is a list of the things that we have accomplished to date over the last year, since the last programming motion we had a year ago. I just want everybody to have an opportunity to at least see what we had accomplished and what the will of the committee was to move forward.

Now, we only have one more week in this session, and that's scheduled for next Wednesday afternoon, so I just thought we'd better—is there anything else you want to add to that, Trevor?

The Clerk of the Committee (Mr. Trevor Day): No. Basically, what we have so far is, the standing orders review is always before the committee. It's part of our mandate. There are three bills before the committee. We have this meeting and potentially the next meeting, if the committee wishes, but that's where we sit for now in terms of what's before the committee.

The information that was provided was at the request of the meeting before the const week, just an update on where things stood—we had some new members—to give them a chance to get up to speed on where we are and what was taking place. But that's where we are right now.

The Chair (Mr. Garfield Dunlop): Bob? Do you have a few comments?

Mr. Bob Delaney: I was just subbed on. I'm Bill Mauro today. So if you don't mind, although this is something I know a little bit about, I'd just like to have a few minutes to have a quick look at it because this would mean just getting up to speed.

The Chair (Mr. Garfield Dunlop): Okay. If you'd like a short recess to review it, that's fine.

Mr. Mike Colle: This here?

The Chair (Mr. Garfield Dunlop): Yes, and in fact we don't have to do anything with it. We just want to

make sure we provide it to all the members of the committee.

Did you get one, Vic?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Garfield Dunlop): Okay, fine.

Maybe I'll ask Peter to say a few words and help people walk through it. Maybe that's the easiest way right now.

Mr. Peter Sibenik: Thank you very much, Mr. Chair. Before I begin, I want to indicate that my colleague Joanne McNair from the table research office is here. She'll eventually be taking more of the lead on procedural issues with this committee down the road.

The document before you is in two parts. The first part deals with proposals that were generated from last year's standing orders review. The second part deals with Mr. Hillier's proposals at the last committee meeting. You'll see that it's been organized. There are 17 proposals in part 1; it's organized by topic. The first one is accessibility for MPPs. There's a short description of the proposal, in this case, giving the Speaker a little bit more latitude to accommodate members with disabilities. The reference that you see there—the reference column refers to documents that may have been generated by the table to assist the members in their deliberations: options, specific wording. Then the last item, probably the most important—it will either have a "C" or a "D"—a "C" refers to the fact that there's consensus on the part of the committee with respect to that particular proposal, a "D" indicates that the matter has been deferred for further study, consideration, research, like that; it hasn't been firmed up yet.

You'll notice that with the first two or three items there's a consensus with respect to accessibility for MPPs and opposition days. Then, as we get into topic number 3, the daily meeting schedule, there was some consensus with respect to the idea of reuniting question period and routine proceedings, but then, when it comes to whether that should be in the morning or the afternoon, that's yet to be decided, and the House leaders have presumably yet to get back on the different kinds of options that were put before them. The rest of the items in part 1, they are all deferred items.

That's basically how this thing is structured. I'll leave it up to you, Mr. Chair, to decide, and the committee.

The Chair (Mr. Garfield Dunlop): Yes. I wasn't sure how long this meeting would take, or anything else

today. I just wanted to make sure that we at least had this list in front of us and it was an official meeting, and look at questions from this point on.

Mr. Randy Hillier: I might make a couple of comments, Mr. Chair. I know that there's a few other bills that have been referred to this committee that have not gone forward—that they've not been studied by the committee—but it is the express responsibility of the committee to always have the standing orders referred to this committee for review and recommendations, amendments, whatever. The standing orders are always referred to this committee. I have seen and I know that research and the Clerk's office have done a substantial amount of research into the standing orders, at the request of the committee, to provide background and details and to give all members of the committee a greater knowledge and a greater understanding of potential options.

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I'm sure nobody has read it in its entirety, because it is a substantial amount of research that has been done, but I think that clearly there's a willingness and an interest of the committee to look at ways that we can improve the functioning of the House and the functioning of individual members in the House. Clearly we see that there's some consensus on some subjects, and I don't believe anybody could misconstrue that or view that those things that are with consensus have any controversy to them at all.

The first one, accessibility for MPPs—I think that's a pretty minor, but agreeable, amendment. Presently, we've seen the Speaker and the House grant unanimous consent whenever there has been a case of somebody with a disability, so this would just codify what's already in operation. Instead of seeking unanimous consent, the Speaker, of his own accord, could assist a member who has a disability. That doesn't take away the House's ability to provide unanimous consent if the Speaker doesn't provide that latitude, so it's just one additional means to ensure that all members can always have their seat, even if they're experiencing a disability.

I think it might be wise for the committee to refer those things that are in agreement back to the House for the consideration of all members. There are no defined additional steps; this committee is free to recommend directly to the House. That is one where there's agreement. Actually, those first two are in full agreement.

The other one where there is agreement is in my proposals on the back page. I know every member of the committee has received letters from the private bills and regulations committee, which has voted and recommended that there be two changes done to the standing orders with regard to the private bills and regulations committee. So there's consensus there as well.

I would suggest that those things that are in agreement upon by all parties be referred to the House with a recommendation to adopt them in the standing orders.

The Chair (Mr. Garfield Dunlop): Bob, do you have questions too? Bas just arrived here, by the way.

Mr. Bob Delaney: I'm just looking at the one related to accessibility for MPPs. I have a question, I guess, for Peter, and one for Trevor.

From the vantage point of doing the research, Peter, what does the spectrum of that issue look like, either across Canada or in other jurisdictions? To what degree do Speakers have this latitude that you know of or that you've researched?

Mr. Peter Sibenik: I don't think it's hard-wired into very many standing orders across the country, but the Speaker does exercise some latitude.

Part of the difficulty is that accessibility is sometimes related to procedural issues in the House. For example, a member cannot stand in order to vote, so the Speaker might say, "Okay, raise your hand." That would be the kind of latitude that this kind of a proposal would entail.

There are also things that happen non-procedurally; for example, making the chamber more accessible. Well, the chamber has been made more accessible over the course of the past number of years, so there's that side of it; the administrative side of it as well.

Various initiatives, I think, have been taken by different jurisdictions, probably more so in Ottawa than in any of the other ones. I couldn't pinpoint for you a specific standing order in other jurisdictions, but I can look into that to see if there is a specific standing order that gives the Speaker the latitude to make adjustments in other standing orders so that members with disabilities can be accommodated.

Mr. Bob Delaney: Well, then, where I was headed—and the question, I guess, is to Trevor—I was headed in the exploration of unintended consequences. In the desire to do good for a case that we cannot accurately foresee, where are the limits, in which we could end up moving into unintended consequences—in either giving the Speaker or implying an obligation by the Speaker to enable the participation of a member with a disability?

The Clerk of the Committee (Mr. Trevor Day): In the original discussion around this, there were two views that arose, one being, currently we have a practice whereby the Speaker will seek unanimous consent for some type of exception, perhaps in the voting, something of that nature. The fear is that for whatever reason, it takes one member to say "no," and then the Speaker is in a very awkward position. The member has a right to vote in this case, but consent has already been asked for and not received. That was the "for" side.

The "against" side that was raised was if you are putting this type of authority in the Speaker's hands, who determines to what degree accommodation must be made? Who determines if it is enough? So there is something to be considered.

Again, originally, when this discussion was had, these were the issues that were around in the committee. It's back to the committee to determine how they feel about making recommendations of this nature.

The Chair (Mr. Garfield Dunlop): Randy.

Mr. Randy Hillier: Thank you. I'll just add a couple of my views on this. We've seen the unanimous consent in this Parliament. I forget her riding—

Mr. Bob Delaney: Tracy MacCharles, Scarborough—

Mr. Randy Hillier: Tracy MacCharles.

Mr. Mike Colle: Pickering–Scarborough East.

Mr. Bob Delaney: Pickering–Scarborough East, that's it.

Mr. Randy Hillier: Yes. I think we can all recognize that and could never envision a time when the House would prevent somebody with a disability from being a full participant in the proceedings of the House. I just don't believe that day would ever come, and if it does, I don't want to be around.

But then there's the other extreme—or not an extreme, but at the opposite end of that spectrum, we saw in the federal House where Fletcher, that quadriplegic member, was provided certain accommodations for his disability. I think that's a good spectrum to look at. I would ask, maybe, the Clerks if they know how—we know that it was accommodated. I'm not sure what process was used to find that accommodation, but once again, I think in cases like that, when we contrast those two cases, it is very easily seen what the accommodation is, and understood, and the House grants consent.

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For other disabilities, what is required may not be intuitive to the House, may not be seen by the House. It's in those cases where I think the Speaker, somebody who is delegated and has the authority to take a look at what accommodations would be required—I think this sort of change to the standing orders would facilitate those unique—or disabilities that are not envisioned by us here today.

The Chair (Mr. Garfield Dunlop): Yes, go ahead, Bas.

Mr. Bas Balkissoon: Just one question, and I'm wondering if research or the Clerk could help: Would it be advisable to take a look at the Ontario disabilities act and see what are some of the defined disabilities? Maybe we could make reference to those and those only, versus the Speaker having an open cheque.

Mr. Peter Sibenik: I will say in response that the assembly is subject to the AODA—

Mr. Bas Balkissoon: Right.

Mr. Peter Sibenik: The Speaker has to submit a report every year on that. That doesn't deal with House procedure. The House can do what it wishes to do.

Mr. Bas Balkissoon: I'm trying to remember where the request came from. Is it strictly because of our member from Pickering–Scarborough East wanting to sit at her seat to speak, rather than stand, because she physically could not stand? Or were there other situations?

The Chair (Mr. Garfield Dunlop): No, I don't think so. I think it was just anybody with any kind of disability. When we come back to it—

Mr. Bas Balkissoon: No, but I'm trying to think—leaving it open-ended could cause an issue someday that you want to make sure you prevent that.

The Chair (Mr. Garfield Dunlop): Well, it was the one thing we agreed on.

Mr. Bas Balkissoon: I know we agreed on it, but I think—

The Chair (Mr. Garfield Dunlop): We can open it back up.

Mr. Bas Balkissoon: I think we agreed in haste without thinking. It's the same thing—Mr. Clark wanted those motions of whatever to be approved. On the surface, it sounds good, but you could have the oddball that comes forward that creates a problem.

Mr. Mike Colle: Which will always happen.

Mr. Bas Balkissoon: And it will always happen, so it's better to define what you want than to have it open-ended.

The Chair (Mr. Garfield Dunlop): Cindy had a question first.

Ms. Cindy Forster: You talked about the Ontario disabilities act, but I think that whatever we do here needs to be in the spirit of the Ontario Human Rights Code as well, right? On the whole issue of undue hardship—

Mr. Bas Balkissoon: Yes, that's what I'm thinking.

Ms. Cindy Forster: However it's written, at the end of the day, I think that spirit of those prevailing acts needs to be part of the order.

The Chair (Mr. Garfield Dunlop): Okay, let's keep in rotation. We'll go to Mike and then we'll go back to Randy.

Mr. Mike Colle: Yes, it made me think of when we had the NDP member—I wasn't here then—Malkowski. They had to provide services for him. They had to provide a signer. And the question I'm thinking of is, what we allow in the House: Does it apply in committee? If a committee is travelling, if a committee—whatever the committee tasks are. Do those same principles of accessibility then apply to committee work, which is an extension of the House? That's the question I had.

Mr. Peter Sibenik: The committee proceedings are proceedings in Parliament, and Mr. Malkowski's interpreters did follow him around to committee proceedings. They took it in shifts. There were several interpreters who had to follow him around.

Mr. Mike Colle: Yes, because then I'm thinking about the case in the federal House, where the quadriplegic member—

Mr. Vic Dhillon: From Winnipeg.

Mr. Mike Colle: —from Winnipeg—did they have to provide his accessibility rights right across, that he would have travelled across Canada? I don't know what they did in that case, how they accommodated him in that situation. It'd be interesting.

Mr. Peter Sibenik: I'll look into that.

The Chair (Mr. Garfield Dunlop): Randy?

Mr. Randy Hillier: I think all of those things lead back to where we started. We'll never be able to envision all potential possibilities. We have to rely on the good judgment and the exercise of good judgment and discretion by someone, preferably someone who is knowledgeable of that specific, in this case, disability. Let's put the cards out here. The House has expressed confidence in the Speaker. That's why he or she is in that chair. This would allow, if something developed, that the

Speaker could analyze and evaluate the circumstances and come up with an appropriate and reasonable facilitation. It doesn't mean everything, at all times, to whatever.

I think the other thing I would add into this is that it would be better to ask one person who has spent some time analyzing and evaluating the situation than 106 other members who may only have a superficial understanding of the disability. I think what's important to realize is that because the standing orders are permanently referred to this committee they are always subject to amendment. So if down the road, whether it's in a decade, two decades or two weeks, the committee has the ability to amend—or to advise and recommend to the House that the standing orders be modified once again. That's the way progress is made in life, through experience and by taking steps, seeing if they work well and if they can be improved upon in taking steps. That's called progress. Progress isn't static; it's by incremental change.

So I think there was agreement on that by the committee. I think those other elements where there is agreement and consensus, where people do believe that it will be an improvement—we ought not to second-guess all those people as well, and refer it back to the House and have all members of the House, preferably, have the time to analyze and evaluate those modifications and for the House to express its view on it.

The Chair (Mr. Garfield Dunlop): Okay. Yes, Cindy?

Ms. Cindy Forster: Well, I think it's a little premature at this point to refer this back to the House in a report because I think that there's a lot of process that needs to be actually applied to this. I don't think that it's reasonable that it would be—and I don't think Randy is suggesting that it would be the Speaker alone who would be determining people's disabilities, whether they were disabled or not, because many people have invisible disabilities as well as visible. We would need, before we send this back to the House, to have some of that process piece in place, with respect to how do you determine that? I mean, if somebody comes in with a broken leg, you know they have a broken leg and may need some accommodation for a few weeks. But there may be people who have severe, permanent disabilities and there's going to have to be some process in place, some clinical expertise, to determine what that disability is and what those accommodation needs are. I don't think it is necessarily the elected officials.

The Chair (Mr. Garfield Dunlop): Yes, and I know exactly where you're coming from with that because we spent a lot of time even getting to these few pages. You can see most of them haven't been agreed upon, and that was a year ago—not a year ago but back in September—a year this September when we actually made those recommendations. I can see why you'd want to go back to caucus or whatever and discuss it in full, but we just never had the opportunities, in our caucuses, to get to that last year.

I go to the Liberal side now, Bob, and then to Bas.

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Mr. Bob Delaney: I'm sort of where Cindy is in some of her comments. Again, I want to go back to research and the Clerk, so I'm going to ask, I guess, to start with Trevor. The standing orders are very clear that, during proceedings of the House, a stranger is not allowed on the floor of the Legislature. Basically, the only human beings that can be in among the benches are the pages and the members.

Let us presume that the Speaker, with all good intentions, is trying to accommodate a member with a very severe physical or cognitive disability, and the Speaker proposes the use of a personal assistant or something like that. My question to Trevor, and after that to Peter to determine whether or not something like this has happened, is, should the House, in its wisdom, or the Speaker, in his authority, choose to bend his mind around, "How do I accommodate a member's request for a personal assistant during proceedings of the House such that the assistant would be seated among the members?"

I don't know how to resolve that quandary. Could you perhaps provide a little bit of enlightenment?

The Clerk of the Committee (Mr. Trevor Day): You're right. A stranger on the floor is something—I think we saw it the other day during the minister's statement, where unanimous consent was sought to have a sign language interpreter on the floor of the House to assist. It would work in very much the same way.

In our current situation, where we're at now, unanimous consent is sought to forgo or create an exception in our rules for something to take place. Determining in that situation—again, at this point, a hypothetical, but we have had a similar situation this past week.

Mr. Bob Delaney: Would this apply if, for example, either the need or the request was to have an interpreter, an assistant or an aide seated with the member on an ongoing basis? In other words, not unanimous consent for today, but unanimous consent for a stranger to be—

Mr. Bas Balkissoon: In accommodating a disability, it could happen.

Mr. Bob Delaney: Exactly. I'm just wondering whether there's any experience with that.

Mr. Peter Sibenik: Yes, if I could respond to that. In the case of Mr. Malkowski, within a few days of the House coming back after his election to office, the House passed a motion to allow for interpreters to be on the floor. Now, the interpreters were not seated beside him; they were at different vantage points of the Legislative Assembly. That occurred for the life of that particular Parliament. As I say, they accompanied him to committee rooms, and they were positioned at different spots within the committee rooms and took turns, as well.

So it's a question as to whether the committee is interested in that happening on an ad hoc basis—motions to deal with a particular situation, or whether there should be some kind of a blanket authority.

The Chair (Mr. Garfield Dunlop): Okay, then before we go to—

Mr. Bas Balkissoon: Mr. Chair, I'll come back to it—I put my hand up because I thought I sensed where Mr.

Hillier was going and I just wanted to make sure I reminded the committee, but I'll comment first.

Maybe we should just look at the disability and say to accommodate the member based on the ODA and the Human Rights Code and any other legislation that exists. I mean, I know it says we have to, but it doesn't give the Speaker the privileges to make the modifications that are necessary in the chamber, and this will give him that, based on our standing orders. We may need to just qualify the disability in that way.

I just want to comment. I thought I heard Mr. Hillier—and I'm sorry I walked in a little late; I had lunch with my page—indicating that maybe some of the stuff that we've agreed on here should be pushed on. I'll go back to when the Clerk was in front of us. She cautioned all of us not to do one-offs because one-offs can impact the standing orders somewhere else, and you need to look at the whole before you send it back. I caution all of us, again, that it could be dangerous if we do one-offs, send it to the assembly and then we want to do something else, and we've got bring it back. I just wanted to raise that point.

The Chair (Mr. Garfield Dunlop): I understand.

Mr. Bas Balkissoon: Because I've been sitting through this thing for three years now.

The Chair (Mr. Garfield Dunlop): So have I. I'd like to see something pass.

Mr. Bob Delaney: And I chaired it before you.

The Chair (Mr. Garfield Dunlop): I'm just trying to keep something flowing here. I'm not asking everybody to pass anything today or anything like that. This is an opportunity to do something if we, in fact, can do it, so we'll keep moving with this discussion for the time being.

Jane and then Randy.

Mrs. Jane McKenna: Just so I'm clear: The objective of today is what? If this was preparation from Peter to put this together, and you have consensus here, just the fact that we're backpedalling to change the consensus, I find extremely confusing, and we're getting—

The Chair (Mr. Garfield Dunlop): No.

Mr. Bas Balkissoon: I think we have a consensus on the idea. We didn't have the actual wording. We do have to do the actual wording.

Mrs. Jane McKenna: Yes, so I guess my question that I'm asking is, what is the purpose? Besides that you did great work putting this together and you actually have something on paper, I'm just wondering, today are we just looking at this and just saying this is great? I'm confused about what we're supposed to be doing here today.

The Chair (Mr. Garfield Dunlop): My intent, at this stage—as Chair of the committee, I've been trying to get something moving. I wanted people at least to take it back to their caucuses, exactly what we've got here, including Mr. Hillier's stuff, his proposal, and to see where there was consensus on anything else here.

Mrs. Jane McKenna: Okay, that's great. I just—

The Chair (Mr. Garfield Dunlop): It was more of a review just to make sure that we tidied something up before the end of this session.

Mrs. Jane McKenna: I just wanted clarity because I just find I'm confused by what we're doing.

The Chair (Mr. Garfield Dunlop): I'm going to keep going in circles here. Randy?

Mr. Randy Hillier: At the beginning, I suggested that this has been an ongoing process for quite a period of time, and if we were to measure it by outcomes, there wouldn't be much output ever. That's not the purpose of us to be here, just to have an endless discussion that never amounts to any tangible outcome or output. My suggestion was, those things where there is consensus, let's have confidence in ourselves as members to refer it back to all members for their approval or at least for their evaluation and analysis and either agreement or disagreement. At least then, you've taken a step beyond the endless discussion. You can find that either, yes, the House is in agreement, and it is adopted; or the House has expressed that it is unwilling to adopt. At least there's some finality instead of the endless discussion.

But I do want to make two points here as well for all members of the committee. The first goes back to Cindy's comments about process. When we take a look at the standing orders, these are more conceptually based, with the express recognition that the House is sovereign over its own abilities and that the officers of the House will take conventions and traditions and the honour of members into consideration before making a determination.

I'll use this as an example: In the standing orders, it says that we cannot impugn motive. It does not list in detail what those potentials are. It says that we cannot use unparliamentary language, but it does not list in detail what words are unparliamentary because expressions and tone and a number of other different things come into play; therefore, we allow the Speaker to exercise that judgment in the honourable tradition and conventions of our House.

I think the same thing applies here with somebody with disabilities. I will add this final thought for the committee to consider: There may be people who have disabilities that are not seen, and members may wish to retain a level of privacy of that disability. Putting it out on to the floor as a motion or putting it out for unanimous consent does not have very much regard for that person's privacy. I would think it would be much more honourable and much more thoughtful and respectful if we allow, if a member does have a disability—to have that private conversation with the Speaker, and for the Speaker to have that latitude to exercise his judgment, knowing that he's going to keep the conventions and traditions of the House intact, as he does.

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The Chair (Mr. Garfield Dunlop): Cindy, did you have anything? I'm just trying to go in circles here. Mike?

Mr. Mike Colle: You're making me think—because you're trying to put this in the context of everything that

has happened over the last number of years—about when we’ve had standing order changes. I’ve been through two of them. I don’t know, Mr. Chair, if you were here for the first one, which was with the Mike Harris government. There were some massive changes to the standing orders. And then Mike Bryant did a whole bunch.

The Chair (Mr. Garfield Dunlop): Yes, I knew the Mike Bryant one.

Mr. Mike Colle: Really, in many ways, it got totally politicized, because the government took it and drove it, and therefore you went with what your House leaders told you to do, right? Caucus, in a way, never really had a wholesome discussion about it. It was already done for you.

What the Speaker is saying, I think, might be very helpful to get to where you’re going, Randy, and that is, I think we’ve got to get it into the caucus stage and the House leaders’ stage, where they are asked by us, “Hey, listen, these are three or four things, whatever, we’ve got consensus on, and we’d like you by such-and-such a date to come back to us with what your input is.” Because if we put these forward into the House and then it got caught up in the party apparatus and government apparatus and opposition apparatus—but I think if we asked for caucus members to get engaged in this and come back to us. But I think we’ve got to have a definite date or else this could go on forever within here and in caucus.

The Chair (Mr. Garfield Dunlop): I agree with you.

Mr. Mike Colle: So I think that would be one way. In many ways, I don’t think I know enough about the technicalities here of standing orders, because they’re beyond, sometimes, any rational sort of thought—but then someone says, “Yes, we’ll do this because of this.”

Mr. Bas Balkissoon: We’ve got to borrow Gilles’s book and take it home and dream about it.

Mr. Mike Colle: No, but anyway, that is what I think would be productive—but doing a time limit on when to get it back to us with their input. So they had a chance to have their say before and then after, if it goes to the House—and recommendations from the committee. So they’re part of the process in a meaningful way.

The Chair (Mr. Garfield Dunlop): Are you talking about this document—send it off to each caucus with a time to come back to us?

Mr. Mike Colle: Yes. Either the document or a part, the ones we’ve agreed to. Get them—

The Chair (Mr. Garfield Dunlop): Why wouldn’t they want to look at all those things—

Mr. Mike Colle: Oh, yes, let them look. As I said, whether they look at part or the whole—but to get their feedback on this.

The Chair (Mr. Garfield Dunlop): We do need the caucus and the House leaders to give their support to whatever we come up with here. I think we need that.

We were actually at this discussion about a year ago now. To be honest with you, we tried our best to get it through to the caucuses, but they wouldn’t have time to deal with it. We didn’t put a deadline on it.

Bas, did you have a question or a comment?

Mr. Bas Balkissoon: I just had a comment, and it’s because I’ve sat through standing orders review when Mr. Delaney was the Chair, and I think I chaired the Michael Bryant standing orders review—and we did accomplish stuff. Mr. Hillier might not be aware of it, but we did make some major changes, and there was consensus on a lot, but there was a dissenting report from the opposition party, and it went to the House and it got dealt with.

I think we started out on this particular review on, if I could put it this way, a broken leg, to be honest with you, because we had the two opposition parties request this through the House leaders. It was an open thing: Review the whole standing orders with no real direction. We’ve been struggling here for direction.

What Mr. Colle said is what we did. We got blocked at the point where we couldn’t agree on a House schedule, and that is holding up the entire review for the other parts of the standing orders. We did do what Mr. Colle said, which was send the sample schedules to the House leaders, asking for their comments by—I think we did put a date on it, too—and we’ve never had a response back.

I’ll go back to his very first comment. Since the beginning of this term of government, everything has been politicized; let’s face it. It’s getting to the point where we’re not getting any business done. Mr. Chair, I’ll refer back to our example on Monday: We had a subcommittee meeting, and one member said, “I’m not participating until my House leader gives me direction to participate.”

I hear what everybody’s saying—“Let’s do things”—but let’s be genuine with each other and take the politics out of it, or we play the games.

The Chair (Mr. Garfield Dunlop): With that, then, let’s come up with some decisions today. Give us our options right now, Trevor, on what we can do with this particular document. Is there even the will to make any changes?

The Clerk of the Committee (Mr. Trevor Day): That’s the first one.

The Chair (Mr. Garfield Dunlop): That’s the first question. You say that we’re politicized etc., but in fact, is there the will to make some change? Because people keep talking about the low-hanging fruit, but we haven’t made any changes whatsoever, if there was something valuable to grasp onto.

Mr. Bob Delaney: To that, Chair, as my colleague has pointed out, you have one current and two former Chairs of this committee. We are all personally aware of how strong the inertia is against getting a very large body into motion. I don’t sit on the committee anymore and I have to confess I miss it, because I always enjoyed this committee and, at the very least, the potential of what it could do. Every now and then, you would take a small victory and say, “Hey, we did something.”

To some of the points brought up by Mr. Hillier: You’re not hearing resistance. All you’re hearing is us trying it on for size. I don’t think anybody is happy with

the status quo. I think we all agree that we'd like to move ahead with something. The discussion that I've heard all around has been—we've been trying it on for size. We haven't been debating silly things; we've been raising what I thought were very strong points.

The Chair (Mr. Garfield Dunlop): I think they've all been good points from every side. It's just hard to get agreement.

Jane, did you—

Mrs. Jane McKenna: Trevor, right now, the first motion is that we move forward, so can we just do that? You just said that, right? You were saying that that's the best thing to do.

The Chair (Mr. Garfield Dunlop): I think the question is, Jane—there is the will to make some changes; it's just that it doesn't happen as easily as we might think it would happen.

Mrs. Jane McKenna: Right.

The Chair (Mr. Garfield Dunlop): Okay. The other thing I wanted Trevor to bring up was: What would our options be as far as—because we are waiting for previous letters from the House leaders, right? We haven't had a response yet. Now do we re-send it off to the House leaders and ask them to caucus it with their caucus members?

Mr. Bas Balkissoon: I would recommend that we send a follow-up letter, and this time request a date and say that the committee's work has been stalled because we have not received their response and we're now requiring a response by this date. The response could be that they agree or they disagree.

The Chair (Mr. Garfield Dunlop): Okay. Randy and then Cindy.

Mr. Randy Hillier: Yes, in the interest of moving forward—and I welcome those thoughts, Bob, about trying this on for size, and I understand we're taking a look at these things and being thoughtful about how we move it forward. I'll come to some ideas for options in a moment, but before I get there, I think I want to first address Mike's comments about the politicization of the standing orders changes that we've seen in the past.

We can all recognize—and nobody will disagree with this—whenever there have been standing orders changes, indeed they are often motivated and driven from a political or partisan vantage point. I don't think that's in too much disagreement. I'll say that for the changes during the Conservative years or the Liberal years or the NDP years. That's one of the privileges of majority government.

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That being said, we all have to recognize that this committee has been delegated the authority to make recommendations on the standing orders regardless of the partisan atmosphere or environment that's in the House. We do have the delegated authority to do that. We don't need approval from anyone else. It's just the express will of this committee. So if you want to depoliticize it, then that's the way to do it—for this committee to exercise its already-known delegated authorities.

As I come to these options, I'll put a couple of them on the floor here for consideration. Knowing that not all members are interested in the standing orders in detailed—who either aren't interested or don't want to be interested or whatever. But there are other members who are interested in the standing orders. So I think one of the options could be to put out a time frame and ask those members who are interested in the standing orders and who are interested in making a representation to this committee on this package to do so. But I would put a time frame to it. I think that is a way to depoliticize it. I think it is a way to encourage greater understanding and knowledge of the standing orders by all members, by encouraging them to participate in that process. I would put a time frame to it, and then, once again, instead of sending it off to the House leaders, I would say this committee should take a look at those comments from individual members of the House and then make a determination, using your delegated authority—to make the recommendation either to go forward or not. That does not prevent the committee from also sending this documentation off to each caucus, asking for their input. But I think that's the way this committee can actually get a good perspective of what other members of this House may have and may wish to express to this committee. That would be my suggestion, Chair. If the committee is interested—and I think there is a desire and a willingness to make changes—put a direct ask out to all members of the House that over the next period of time—and slot off. We'd do it the same as every other committee, Trevor. You know, put out that request for X period of days and that people have to respond by X time. Then, the Clerks can slot off days for this committee to hear from the members of this House on what their thoughts and ideas are.

The Chair (Mr. Garfield Dunlop): I have no problem with that going out to all 107 members. If they comment back by next fall or something—it's not going to be next week, for sure, by the time you compile it.

Bas?

Mr. Bas Balkissoon: No, you had Cindy on first.

The Chair (Mr. Garfield Dunlop): I'm sorry. Cindy, I apologize.

Ms. Cindy Forster: That's alright. I think the first piece should go back to House leaders, and ask them to respond to the letter that went to them last year with respect to this package of proposals.

The second piece, for me, is that I heard, I think from Bas, that we shouldn't be looking at one-offs here. The ones that we do have consensus on: Have we had a look to see if there's any impact on any other standing orders with respect to those four that we have consensus on? I would be happy to go back to my caucus next week and have a discussion about some of these options.

The Chair (Mr. Garfield Dunlop): Each time we go back for a week, it seems that nothing ever gets done. I was hoping we could give them some period of time to review it and then send their comments back to Trevor and his team here, and then, at a meeting we set up, we

would come in and discuss what all the caucus members had said, whether they agree or disagree with any of this stuff. Maybe they won't agree with the ones we've agreed to in the past, for all I know, and maybe some of the impacts as well.

The Clerk of the Committee (Mr. Trevor Day): So far what we've done is we've sent a House schedule—two potential House schedules to the House leaders. We didn't receive a response initially. We've sent a follow-up letter. We haven't received a response from that.

With Mr. Hillier's suggestion, we do have the ability to draft some type of cover letter, much the same way you'd have public hearings on a regular bill, put it out to all 107 members asking for input, written or oral, within a period of time. If there is ample response or some response, we can schedule dates when members can come forward and speak. It is doable, at the will of the committee, to put something like that together and have it sent off to all members of the House.

The Chair (Mr. Garfield Dunlop): Does anybody second that?

Mr. Bas Balkissoon: No, I want to speak. I believe we received a letter from the House leaders before we started this review, didn't we? Or we received something from the House?

The Clerk of the Committee (Mr. Trevor Day): Regarding?

Mr. Bas Balkissoon: For us to start this review.

The Clerk of the Committee (Mr. Trevor Day): Originally, the standing orders review is always in this committee's mandate. What had happened is part of the membership motion that lapsed on September 9—a condition of that was that this committee, after one other piece of business, would undertake no other business until a review was completed. That motion has lapsed and is no longer—

Mr. Bas Balkissoon: Okay. But that motion had no directions on specific areas of the standing orders. That's the point I want to make.

The Clerk of the Committee (Mr. Trevor Day): No.

Mr. Bas Balkissoon: It was so open-ended that every discussion we had—and unfortunately, my colleague Ms. MacLeod is not here. Every time we raise an issue, she says, "I'd like to discuss that with my caucus and come back," and even some of those never came back.

But just to comment on what Cindy just said, if you look at this, we've only had agreement on two small items, which is—and to be honest with you, number 2 here, I thought we had qualified it and I'm concerned about the way it's written because we didn't vote on anything. We said it was general support. Because in number 2, I am sure there was a discussion that yes, the member who moved an opposition day motion does have the opportunity for rebuttal within their own time frame, so they have to schedule it that way. The way this is written, someone could interpret this that they get an extra five minutes. I did not agree to an extra five minutes. I know that for sure.

The Chair (Mr. Garfield Dunlop): Okay. This is not etched in stone here. We're just trying to get some—

Mr. Bas Balkissoon: Yes. So I need to clarify that. If you look at this, we've only had agreement on two small items and the third one was the schedule and it went to the House leaders, so we had very little.

If the committee wants to do a full review of the standing orders by sending a letter back to each caucus saying, "Okay, the annual review of the standing orders is coming up. Would you like us to review things and can you indicate which areas of concern you have?" and we start all over, I'm quite happy with that.

The Chair (Mr. Garfield Dunlop): I'm willing to try anything. Randy?

Mr. Randy Hillier: Just to correct the record: It's more than just two; okay? And I'll refer to the back page, item number 1: The Standing Committee on Regulations and Private Bills has recommended that those two changes be incorporated in the standing orders.

Mr. Bas Balkissoon: Right, but this committee hasn't decided—

Mr. Randy Hillier: That's right, but there has been agreement. I just want to clarify that, maybe.

Mr. Bas Balkissoon: That's a committee request here. We have not debated it and agreed upon it.

Mr. Randy Hillier: That's right, but I still come back. I think we can continue trying the same path that has failed, that we've not heard back from and that we've not gotten any response from and expect a different result, or we might try a different process to get a different result.

Chair, I would like to put that motion on the floor for discussion and a vote, that the committee invite all members of the House to participate in this standing orders review. I would leave it up to Trevor that we could put some dates together for a response back and a scheduling of those who are interested. I think that, if nothing else, this committee will then have a better understanding and a better perspective of what the 107 members of this House are expecting from this standing committee.

The Clerk of the Committee (Mr. Trevor Day): I just have one question. With this request that we're putting out, will we be sending anything to those members, or would it be an open "We are reviewing the standing orders; we would like to hear your views"?

Mr. Randy Hillier: I think it would be reasonable to send this.

The Clerk of the Committee (Mr. Trevor Day): Okay, so, this being sent—

Mr. Bas Balkissoon: Chair, send this, and they're also welcome to submit concerns they have.

The Chair (Mr. Garfield Dunlop): Absolutely.

Mr. Randy Hillier: Absolutely. Yes.

Mr. Bas Balkissoon: Leave it wide open. But you can send this as a reference.

Mr. Randy Hillier: Yes, just to provide some guidance. But yes, leave it open, sure.

Mr. Bas Balkissoon: Sending this as a reference is fine.

The Chair (Mr. Garfield Dunlop): Okay, have we got agreement on this? Because this is at least a step forward here, I think. Have we got agreement?

Mr. Bas Balkissoon: But, Mr. Chair, we have three subcommittee members. I think we should tag our subcommittee members to get an answer from their caucus that comes back to this committee by those dates.

Mr. Randy Hillier: We can do that in addition, Bas.

The Chair (Mr. Garfield Dunlop): We can do that in addition, but we've got to get a meeting together.

Mr. Bas Balkissoon: Yes, that's what I'm saying. Do it in addition. At least, if we're going to move forward, we're going to move forward—

The Chair (Mr. Garfield Dunlop): I like the idea, at least, of every member having a chance at it, if they're interested or not.

Mr. Mike Colle: I think we're agreed on that.

Mr. Bas Balkissoon: Yes.

The Chair (Mr. Garfield Dunlop): Okay.

Ms. Cindy Forster: I'm going to call for a 10-minute recess, because my counterpart, Mr. Bisson, wants me to discuss any votes with him.

The Chair (Mr. Garfield Dunlop): Okay. All right.

Mr. Bob Delaney: That's fair.

Ms. Cindy Forster: So, I'll go down and see him, and—

Mr. Mike Colle: We've got to get this out—

The Chair (Mr. Garfield Dunlop): No, we haven't got it. You're not agreeing to this until—you're asking for a recess.

Mr. Bas Balkissoon: She wants a 10-minute recess.

Ms. Cindy Forster: A 10-minute recess.

Mr. Mike Colle: That's understandable.

The Chair (Mr. Garfield Dunlop): Okay, a 10-minute recess.

The committee recessed from 1403 to 1413.

The Chair (Mr. Garfield Dunlop): We'll call the meeting back to order. Thanks very much, Gilles, for coming in. We had to recess there, but we had a motion on the floor. We wanted to make sure that—

Mr. Gilles Bisson: Can I be clear on what the motion is? It was explained to me by Cindy, but I just want to be clear.

The Chair (Mr. Garfield Dunlop): Okay. Go ahead, Trevor.

The Clerk of the Committee (Mr. Trevor Day): Basically, what Mr. Hillier was asking for is that we put out a document that we have—there should be a copy before you—

Mr. Gilles Bisson: Yes.

The Clerk of the Committee (Mr. Trevor Day): —to all members of the assembly, asking for their input on this particular document or any other standing orders changes they'd like to see done. We would put a timeline on that, and in discussion with the Chair, I believe that sometime in the fall, we could work out something between them, getting back to my office with ideas. We could sort of put those together, and if there is a need for it, we would set up days where members could come in and speak to standing orders changes they would like to see.

Mr. Gilles Bisson: I'm going to speak against the motion, and I want to explain why—not to be a complete naysayer, or whatever the word is.

First of all, the committee never actually did finish its work. We had been given a mandate by the government—by the House leaders through an order of the House—to be seized with the issue of looking at the standing orders. We got a fair distance into it, but we didn't get to the end of it because we ran out of time. None of this has actually been vetted back to the caucuses—as far as our caucus; I don't know about the Liberals and Tories, but none of this has been brought back to our caucuses yet. Number two: The House leaders have really not dealt with this at the House leaders'. I know that because I sit there as House leader.

If we were to send the letter out, I think it circumvents the role of the caucus. I think if each caucus wants to bring it back to their own members, that's fair, and you can have an internal discussion and then give your committee member some direction about what it is that you'd want, and any additions that they may want to do. As we know, any member has the right to come to this committee and say what they have to say. That's the right of an individual member. But if we do it in this way, I think we're short-circuiting the process, and I don't think it's going to help us in where we need to go.

I'm the first to agree with you, Mr. Hillier, that there need to be rule changes around here; it's something that I've felt for a long time. I know that Mr. Balkissoon feels the same. You were here on this committee asking and advocating for some changes, but at this point I would ask members to vote against it. If we want to bring this back to our individual caucuses, so be it; that would probably be helpful. But we need to have a discussion of House leaders that we have not had yet about the willingness of the government, in the end, to move a motion that would, in fact, deal with rule changes, and we're not there yet.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Balkissoon?

Mr. Bas Balkissoon: Yes, Mr. Chair. I said that if it goes to caucus, and caucus members want to submit items that they want the committee to review, I don't have a problem. I do have a problem with putting a date when they have to respond back to us, and I'll tell you why. It just occurred to me—and I'm sorry it didn't before—that we have Bill 14 referred to us. That organization has been calling my office constantly in the last couple of days because we didn't have our subcommittee. They're begging and pleading for us to deal with the co-op bill.

I believe the government and the NDP has had an agreement and I don't think the Conservatives—

Mr. Gilles Bisson: Not on the co-op bill.

Mr. Bas Balkissoon: No, on something else. We've had agreement, and I don't think my colleagues in the opposition will object to this: the establishment of the Financial Accountability Office, which was tabled today and which is going to be referred to this committee early in the fall because we want to get that done quickly.

So when you look at those two pressing issues, I'd hate to put another date when we have to say, "Okay, we're going to push that by." I don't have a problem with the caucuses dealing with what we've dealt with before and giving us input. But putting dates that they're obligated to get back to us by, I think, will be problematic, because which date will you put? I see these two items as being very important.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Hillier.

Mr. Randy Hillier: One more kick at the can. First off, let me say that inviting members here to make a delegation to this committee is not the end of the process; it's one part of the process, and it's one part to move it forward. It does not negate or prevent the caucuses as a whole responding. It does not prevent the House leaders from putting their input in.

We have 107 members in this House; all of them are members of a caucus. If we invite all 107 members to make a presentation, we are indeed inviting caucuses to make a presentation as well. It's not the end of the process, Gilles, but another important facet and step of the process.

I would also say that we have already sent off letters and requests and recommendations to House leaders and caucuses, but my understanding—and it has been reiterated here—is that there has not been a response. Indeed, I'm not even sure if it has ever been tabled with any of the caucuses as of yet.

We can use multi-tracks to move forward, and I think we must use multiple tracks.

I would also end off with this one final statement: This committee has authority from the House itself. It doesn't derive its authority from the House leaders. This is a standing committee of the Legislature, not a standing committee of the House leaders. We have one House leader here today, who is part of this committee. We ought not to let their difficulties as House leaders infringe on the lawful and duly noted authority of this committee to advance and review the standing orders.

I think this does not short-circuit anything. It broadens out the circuits and facilitates and recognizes the contribution of all members of the House, not just the House leaders or not just the caucus leaders.

1420

The Chair (Mr. Garfield Dunlop): Okay, Mr. Bisson?

Mr. Gilles Bisson: Just to Mr. Hillier: You think that your House leader is having a problem—because he's not. It's not a question that we as House leaders are having problems.

The reality is that the committee never completed its work when it came to a whole set of recommendations. The reason we didn't deal with some of the stuff that came before us is because it was the view of the House leaders and the deputies who are there that whatever we do in a motion, we should be dealing with it all, not trying to piecemeal what comes out of the rule changes, but that we have one motion that agrees we're going to pass a package that does X, Y and Z.

This committee has not finished its work and I would advocate that we probably need to do that. That's something that I'm sure we're going to be talking about at House leaders'.

The other thing is that in regard to the current situation in regard to discussions around the programming motion that's going on, we've had conversations with the Tory House leader. They chose not to participate; that's fine. That's their right and I respect that.

But as far as the rest of it, what's going to happen with bills that are going to be referred to committee this summer and all that stuff? That's a conversation we haven't had yet. I've purposely said to the government House leader I didn't want to deal with anything but Bill 65 and the FAO because I wanted to give Mr. Wilson the opportunity to be in on the discussions that deal with any committee hearings that we'll have this summer, which may include rule changes. It may include the co-op bill; it may include whatever it is. Just to be clear, the House leaders have not dealt with the final part of what would be how we close down the Legislature this spring vis-à-vis the work of committees and all of that stuff.

My strong recommendation to this committee is, if you want to bring this back to your caucuses, please do. If individuals such as Mr. Hillier—who was very helpful, he prepared a document; it was very well-thought-through. He came to our committee and he presented it. This committee has now taken that with, I think, some pretty good, strong suggestions. If other members in your caucuses have that desire to come and present to the committee, so be it. Let them present to the committee.

But until this committee is prepared to recommend a package of things that we want into a motion, I would strongly advise us not to do what's being asked.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Delaney?

Mr. Bob Delaney: While my understanding of the motion that Mr. Hillier is trying to advance is that there's not a great deal to it, I get where Mr. Bisson is coming from—although, like Mr. Balkissoon and our Chair, as I said earlier, there are three former Chairs of this committee sitting here, all of whom recognize that, as members, we would always like to be moving the status quo forward.

I know in our caucus we'd like to have a more fulsome discussion, and the work of this committee has not yet come before the Liberal caucus. I'm inclined to agree with Gilles on this one that I would like very much for it to come to caucus to get some input, and to get a feeling for where we're going.

Mr. Bas Balkissoon: Informally.

Mr. Bob Delaney: Informally. What I don't want to do is to turn down a motion that's very well intended.

I'm just wondering whether or not Mr. Hillier would agree to table the motion today because we don't want to see a motion that's trying to do something fruitful that, very frankly, I think everybody here agrees with, and we certainly are all headed in that direction—I don't want to see something that's well intended get unintentionally torpedoed because it may be a little premature.

Mr. Gilles Bisson: That's a very good point.

The Chair (Mr. Garfield Dunlop): Bas?

Mr. Bas Balkissoon: Mr. Chair, based on what I hear around the table, I think maybe what we should do as individual groups is go back to our own caucuses informally and be prepared for that coming back the next time this particular item is on the agenda. But if I could ask, maybe if we would interrupt business to at least deal with Bill 14 that's been referred to us, because the organization that is behind that bill, the co-op federation, would really like us to address their issue—

The Chair (Mr. Garfield Dunlop): I understand that, but we've got a number of problems around that as well. Right now, we've got a motion on the floor and we—

Mr. Gilles Bisson: Call the question.

The Chair (Mr. Garfield Dunlop): I'd like to call the question. Those in favour of Mr. Hillier's motion?

Interjections.

Mrs. Jane McKenna: Just so we have clarification, so now it's just going back to caucus. I just—

Interjection.

Mrs. Jane McKenna: The motion, okay.

The Chair (Mr. Garfield Dunlop): Those in favour—is there—

Mr. Randy Hillier: Yes, let's just be open and transparent on this. Let's have a recorded vote.

The Chair (Mr. Garfield Dunlop): A recorded vote?

Mr. Randy Hillier: Yes, absolutely.

Ayes

Hillier, McKenna.

Nays

Balkissoon, Bisson, Colle, Delaney, Dhillon, Forster.

The Chair (Mr. Garfield Dunlop): So the motion doesn't pass at this time.

I'm not sure where we're going at this particular point with the standing orders changes. Is there any other business? Yes, Cindy.

Ms. Cindy Forster: Just one comment [*inaudible*] one of us from taking the package and giving it to our members for their input, right?

The Chair (Mr. Garfield Dunlop): Absolutely.

Interjections.

The Chair (Mr. Garfield Dunlop): I thought we had done that a number of times. Please feel free to take it back to your caucuses individually, if you wish. The motion fails.

Mr. Balkissoon.

Mr. Bas Balkissoon: Mr. Chair, under other business, I'd just like to raise the issue that, since we have nothing scheduled on our agenda for next Wednesday, as a committee, we schedule Bill 14. The Clerk can give us direction for advertising the committee hearings and whatever we need to do to assist this group.

I think they've been calling every caucus. I know they've called some of my colleagues and they've called me. If we would at least accelerate Bill 14, which is the co-op bill, to get its approval—because it's a significant bill to assist tenants and landlords in the co-op industry from significant costs.

The Chair (Mr. Garfield Dunlop): Mr. Balkissoon is looking for public hearings beginning next week?

Mr. Bas Balkissoon: Next Wednesday.

The Chair (Mr. Garfield Dunlop): Next Wednesday.

Mr. Bas Balkissoon: Because we have nothing in our agenda.

The Chair (Mr. Garfield Dunlop): Okay. We've also had a request from Ms. MacLeod on Bill 5, Mr. Shurman's bill, not that we have to put that on here as well at this time. Mr. Bisson—part of the programming motion?

Interjections.

Mr. Bas Balkissoon: Can the Clerk tell us what we have to do if we schedule it next Wednesday? What do we need to do?

The Chair (Mr. Garfield Dunlop): Yes. We're going to get one day in without knowing where to sit in the summer, right?

The Clerk of the Committee (Mr. Trevor Day): As it stands right now, this committee has one more meeting before the House rises.

Mr. Bas Balkissoon: I'm suggesting when we start. Who knows when we're leaving? We might be here more than one week.

The Chair (Mr. Garfield Dunlop): I want to make sure we're clear on this, though. Right now, we would have one day next week, okay? We don't have any authority right now to do anything in the summer because it has not been agreed to.

Mr. Bas Balkissoon: No, so I'd like to schedule next Wednesday.

Mr. Randy Hillier: May I just have a comment?

The Chair (Mr. Garfield Dunlop): Yes, you can.

Mr. Randy Hillier: Chair, you can correct me if I'm wrong, but I'm sure I heard it from both the Liberals and the NDP members today that the committee had agreed that there would be nothing else done until they looked at the standing orders. That was charged from the House leaders and that was direction from the House leaders—

The Chair (Mr. Garfield Dunlop): Mr. Hillier, that's actually lapsed at this point.

Mr. Randy Hillier: Oh, that's lapsed? Oh, okay.

Mr. Gilles Bisson: Thank God for prorogation.

Mr. Bas Balkissoon: As a committee, we're still doing our responsibility, which is to review the standing orders.

Mr. Gilles Bisson: Can I just—

The Chair (Mr. Garfield Dunlop): Mr. Bisson.

Mr. Gilles Bisson: I'm not necessarily opposed to what you're asking, but I think you'd better check with the Tory House leader before we do anything.

Mr. Bas Balkissoon: On Bill 14?

Mr. Gilles Bisson: Yes, you should double-check, because I know the Tories at this point are in opposition to the programming motion and they don't want anything to happen. I think you need to have a chat with the Tory House leader. Talk to your House leader first, because you may end up—

Mr. Bas Balkissoon: But just scheduling it at the committee doesn't change much. The group would really like us to move on their bill. They've waited so long for the debates.

The Chair (Mr. Garfield Dunlop): I understand the group wants this and they're lobbying you, but right now, we're limited to one day, and if nothing happens—

Mr. Bas Balkissoon: I'm taking the gamble. Let's deal with the one day and help them out.

1430

The Chair (Mr. Garfield Dunlop): Well, I don't want to gamble as the Chair unless I'm sure I'm clear on what we're going to do with the—

Mr. Gilles Bisson: I'm not opposed to hearings. We support the bill. That ain't my point. My point is, given that we're in the final throes of this House, I don't want to do something that will put our Tory House leader offside completely. I would just ask that we at least—because we could shop this around if we had to.

Mr. Randy Hillier: Yes, I think we should shop that—

The Chair (Mr. Garfield Dunlop): Trevor, point out the issues we've got with this.

The Clerk of the Committee (Mr. Trevor Day): The committee can decide to do public hearings on the bill next Wednesday. Where the issue comes in is that the committee would then have to today make a determination on where we advertise, how much time each person gets—all the things you'd normally get out of a subcommittee report, we would have to do today.

Mr. Bas Balkissoon: Yes, and we could do that. That we know. You advertise it. The hearing is going to be here. Each deputant, we give them 20 minutes—

The Clerk of the Committee (Mr. Trevor Day): If you would like to move a motion on that.

Mr. Bas Balkissoon: —or 10 minutes or five minutes of questions. Those are my suggestions that I'll throw out.

The Chair (Mr. Garfield Dunlop): But we have to do clause-by-clause. We're not going to have it all in one day.

Mr. Mike Colle: No, no; it's just a start.

The Chair (Mr. Garfield Dunlop): Okay, I understand, but I want to make sure that we're clear on this. If the House leaders don't agree to have us sit over the summer—I'm looking at the worst-case scenario; there's no committee hearings over the summer—how do we advertise, then, for the fall?

Mr. Bas Balkissoon: Okay, Mr. Chair, my proposal is let's start. I'm hoping that the House leaders will settle their disagreement before the end of this week, and we could request whatever else we need if it so happens.

Mr. Gilles Bisson: Just for the record, there's no disagreement of the House leaders. I want to be really clear on that. What we have is an agreement to move a programming motion at this point, and we're about to start some discussions about how we deal with the rest of the session. I'm okay with the hearings on the co-op thing, and we support the bill; that's not the problem. I just don't want to do something that's going to upset the Tory House leader. That's going to throw a monkey wrench—

Mr. Bas Balkissoon: And all I'm doing is reserving next Wednesday, rather than nothing happening.

Mr. Gilles Bisson: Well, why don't you reserve it and then see what Mr. Wilson has to say?

Mr. Bas Balkissoon: Well, I would rather advertise and reschedule than just resume—

Mr. Gilles Bisson: Well, if all you need is a subcommittee, nothing stops you from—

Mr. Mike Colle: Subcommittee? They won't show up.

Mr. Bas Balkissoon: We already called a subcommittee on Monday, and they didn't show up.

Mr. Gilles Bisson: Sorry, I forgot that.

The Chair (Mr. Garfield Dunlop): I'm sorry; I've got to get this back in order here. What's—

Mr. Randy Hillier: Okay, I'll put this off for a while. I seek adjournment of this committee.

The Chair (Mr. Garfield Dunlop): Right now?

Mr. Randy Hillier: Right now.

Mr. Mike Colle: But we're in the middle of a motion.

Mr. Bas Balkissoon: A motion that I moved.

Mr. Randy Hillier: I don't think we had it on the floor. We didn't have anybody second it; I don't think there is a motion on the floor.

The Clerk of the Committee (Mr. Trevor Day): Just give me a second here. There are motions, actually. A motion to adjourn is a dilatory motion.

Mr. Gilles Bisson: How can it be dilatory? There was no motion on the floor.

Mr. Bas Balkissoon: I made a motion.

Mr. Gilles Bisson: Oh, was it a motion?

Mr. Bas Balkissoon: It was scheduled—

Mr. Gilles Bisson: I thought you were just having a discussion. I'm sorry.

Mr. Bas Balkissoon: No, no. I moved it.

Mr. Gilles Bisson: Oh, I didn't hear you. I'm sorry. I apologize.

Mr. Bas Balkissoon: Yes, I moved it, but you—to give me the details of how we'd—

Mr. Gilles Bisson: I'm sorry. Okay, there's a motion on the floor.

The Clerk of the Committee (Mr. Trevor Day): Okay. What we have is, Mr. Balkissoon has a motion on the floor regarding meeting next week for the purposes of public hearings on Bill 14.

Mr. Bas Balkissoon: Right.

The Clerk of the Committee (Mr. Trevor Day): Mr. Hillier has moved adjournment of the committee without any condition, which is a dilatory motion, one of the few

motions that you can actually move while there is another motion on the floor. Without debate, a vote on Mr. Hillier's motion to adjourn the committee right now.

The Chair (Mr. Garfield Dunlop): Okay. We've got a motion to adjourn the committee. All those in favour?

Mr. Mike Colle: Recorded vote.

Ayes

Bisson, Forster, Hillier, McKenna.

Nays

Balkissoon, Colle, Delaney, Dhillon.

The Chair (Mr. Garfield Dunlop): The vote is tied, and I'm going to go with the will of the committee at this point. I'm voting against Mr. Hillier's motion to adjourn, so we—

Mr. Gilles Bisson: Okay, that's fine, Chair. I needed to be somewhere else 10 minutes ago, so that's fine; the vote is there.

I just want to put on the record, Mr. Colle—you were saying we're trying to not do this. Not at all. We supported the co-op bill—

Mr. Mike Colle: I didn't say that.

Mr. Gilles Bisson: Just let me finish what I want to say. We support the co-op bill. We don't have problems doing hearings. The only point I was making is that for the love of your House leader, who has to deal with that House leader, this may not be a wise thing to do at this point, because Mr. Milloy has to work out an agreement with Mr. Wilson on a number of issues and I know this will probably be a problem with Mr. Wilson. I think you might be—how would you say it?—throwing a spark into the hay here. We're fine; if you want to do hearings, we'll do hearings. But I just—

Mr. Bas Balkissoon: Do you have a suggestion on how we can lock up the date at least, so if you guys settle it we could move quickly?

Mr. Gilles Bisson: Well, you can lock up the date today and leave it to the subcommittee to do the rest of the work.

Mr. Mike Colle: But the subcommittee is dysfunctional because there's one party that won't come to the table.

Mr. Gilles Bisson: That may or may not be, but my point is—listen, Mr. Colle, you've been here for a long time and you know as well as I do that when we get into the last couple of weeks of the session, things get kind of crazy around here. I'm just saying your House leader will probably tell you what I'm telling you, which is, just hold off a bit. We will get hearings done on this bill because it's important. It will pass. We support it. You support it. There's no problem in passing this bill, but I do know that the Conservatives have some issues right now, and I don't think we need to be making it harder for the Tories.

Mr. Mike Colle: Okay, can I just make a comment? Basically, nothing that this committee is going to do is

going to preclude whatever—this is just one day of hearings. It's just one day.

Mr. Bas Balkissoon: Mr. Chair, my motion really just locks up Wednesday for public hearings. Clause-by-clause will have to be another day. There's no way we're going to finish, but I don't want to waste next Wednesday. Really, it's to get the work going. The second day is not scheduled. If everybody objects to the second day, then so be it, but at least we don't waste a committee meeting next Wednesday. That's all I was trying to do.

The Clerk of the Committee (Mr. Trevor Day): If we could take a two-minute recess—

Mr. Randy Hillier: I'd ask for a 20-minute recess before the vote.

Mr. Bas Balkissoon: Well, we don't have 20 minutes.

The Clerk of the Committee (Mr. Trevor Day): The question is not here yet.

Mr. Randy Hillier: I'm going to ask for a 20-minute recess when it does come on the floor.

Mr. Mike Colle: We've already voted.

The Clerk of the Committee (Mr. Trevor Day): Not on Mr. Balkissoon's; we voted on the adjournment.

I can assist Mr. Balkissoon in drafting a motion that will have all the components of what we'd be required to do this next week, but again, it's the will of the committee.

Mr. Randy Hillier: However, I'll be seeking the 20-minute recess after that.

The Clerk of the Committee (Mr. Trevor Day): We are now within 20 minutes to the end of the meeting. Any vote or any request for a 20-minute recess will put us past, and this committee will adjourn if that is the case. I want to make that clear to the committee members before we proceed.

Mr. Mike Colle: Well, basically, we have no choice then.

Mr. Bas Balkissoon: We have no choice. We don't vote on a recess motion.

Mr. Mike Colle: It kills the motion for the public hearing.

The Clerk of the Committee (Mr. Trevor Day): The members are entitled to a 20-minute recess on any question when we hit that point in the debate.

Mr. Mike Colle: Let that be noted in the record. They want to let this committee be run by House leaders, as usual.

The Chair (Mr. Garfield Dunlop): We're going to vote on Mr. Balkissoon's motion.

Interjections.

The Chair (Mr. Garfield Dunlop): Excuse me, we still have a motion on the floor.

Mr. Bas Balkissoon: Which is?

The Clerk of the Committee (Mr. Trevor Day): Your motion.

Mr. Bas Balkissoon: But I thought you had to take his 20-minute request.

The Clerk of the Committee (Mr. Trevor Day): When the members are ready to vote, if Mr. Hillier requests a 20-minute recess, we will adjourn. We will return next Wednesday to take the vote.

Mr. Bas Balkissoon: Well, my motion stands then, which is to schedule the hearings next Wednesday—

The Chair (Mr. Garfield Dunlop): Okay, we've all heard that.

Mr. Bas Balkissoon: —and the logistics for the Clerk to work it out.

The Clerk of the Committee (Mr. Trevor Day): The effect of a 20-minute recess would mean we would actually be voting next Wednesday on that motion.

Mr. Bas Balkissoon: Okay, that's fine. We'll do it.

The Chair (Mr. Garfield Dunlop): Mr. Balkissoon has a motion on the floor. All in favour of Mr. Balkissoon's motion?

Mr. Randy Hillier: Chair, I would seek a 20-minute recess.

The Clerk of the Committee (Mr. Trevor Day): It's a 20-minute recess.

The Chair (Mr. Garfield Dunlop): We now have a 20-minute recess.

Ms. Cindy Forster: May I now suggest that maybe we try to call a subcommittee meeting for tomorrow to try and deal with this?

The Clerk of the Committee (Mr. Trevor Day): We're recessed right now.

The Chair (Mr. Garfield Dunlop): We are now recessed.

The Clerk of the Committee (Mr. Trevor Day): But we're adjourned.

The Chair (Mr. Garfield Dunlop): We're adjourned.
The committee adjourned at 1441.

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Mr. Bas Balkissoon (Scarborough–Rouge River L)

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Mr. Bill Mauro (Thunder Bay–Atikokan L)

Substitutions / Membres remplaçants

Mr. Bob Delaney (Mississauga–Streetsville L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Randy Hillier (Lanark–Frontenac–Lennox and Addington PC)

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M-5

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Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Wednesday 5 June 2013

Journal des débats (Hansard)

Mercredi 5 juin 2013

Standing Committee on the Legislative Assembly

Committee business

Comité permanent de l'Assemblée législative

Travaux de comité



Chair: Garfield Dunlop
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 5 June 2013

Mercredi 5 juin 2013

The committee met at 1308 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Garfield Dunlop): Okay. We're calling the meeting to order. The purpose of the meeting today was to have a vote on the motion that was actually put forward before. We explained it a little earlier. Do you want to hear that motion again?

The Clerk of the Committee (Mr. Trevor Day): The motion was to hold public hearings on Bill 14 on Wednesday, June 5, 2013.

Mr. Bas Balkissoon: Can we take it in two parts?

The Clerk of the Committee (Mr. Trevor Day): That's what we're voting on right now, Mr. Balkissoon's motion to hold public hearings on Bill 14 on Wednesday, June 5, 2013.

The Chair (Mr. Garfield Dunlop): So you've all heard the motion beforehand here today?

Mr. Bas Balkissoon: It's kind of redundant now—

The Chair (Mr. Garfield Dunlop): It is redundant.

Those in favour? And those opposed? That is carried.

We can have motions now. Where do we go from here?

Ms. Lisa MacLeod: Chair, if I may?

The Chair (Mr. Garfield Dunlop): Okay. Ms. MacLeod.

Ms. Lisa MacLeod: Perhaps we could now take another vote because we are meeting on June 5, and we haven't given public notice. I think there is a desire obviously to see this bill come before committee, as there is a desire to have the wage freeze bill, as well as Mr. Clark's bill on—

Mr. Steve Clark: Treating spouses.

Ms. Lisa MacLeod: —treating spouses. I think there is one other bill that we'd like to address in the assembly. We actually should set a calendar for bringing these meetings forward, these bills forward, this summer. I would, therefore, like to submit that we write to the three House leaders requesting time to meet this August for public hearings. I'm moving that.

The Chair (Mr. Garfield Dunlop): You're moving that, Ms. MacLeod?

Ms. Lisa MacLeod: I am.

The Chair (Mr. Garfield Dunlop): Okay.

Mr. Bas Balkissoon: I'd amend it to say it's at the call of the Chair. I don't want to be specific.

Ms. Lisa MacLeod: Okay. We can—

Mr. Bas Balkissoon: I think every other committee has made a request.

Ms. Lisa MacLeod: I'm fine for that as well.

Mr. Bas Balkissoon: Mr. Chair, I have a motion to move.

The Chair (Mr. Garfield Dunlop): This one's first, though. Okay.

The Clerk of the Committee (Mr. Trevor Day): So a request to the House leaders—

Ms. Lisa MacLeod: —the House leaders that we meet at the call of the Chair over the summer.

Garfield has already told me he wants to meet the entire month of August.

The Chair (Mr. Garfield Dunlop): Okay. You all heard that motion.

Interjection.

The Chair (Mr. Garfield Dunlop): Yeah, right.

Ms. Lisa MacLeod: So what I said was I was just—

The Chair (Mr. Garfield Dunlop): I haven't slept there in 12 years.

Ms. Lisa MacLeod: That was a moment of levity actually. The motion stands as at the call of the Chair.

The Chair (Mr. Garfield Dunlop): Those in favour of that motion? That's carried.

Interjection.

The Chair (Mr. Garfield Dunlop): That's great. Unanimous? You've got to be kidding.

Ms. Lisa MacLeod: First time in two years.

The Chair (Mr. Garfield Dunlop): In two years?

Okay. Mr. Balkissoon has a motion.

Mr. Bas Balkissoon: I move that the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 14, Non-Profit Housing Co-operatives Statute Law Amendment Act, 2013:

(1) One day of public hearings when the committee next meets;

(2) Advertisement on the Ontario parliamentary channel, the committee's website and the Canadian NewsWire;

(3) Witnesses are scheduled on a first-come, first-served basis;

(4) Each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members;

(5) The deadline for written submissions is 3 p.m. on the day of public hearings;

(6) That the research officer provide a summary of the presentations by Monday morning of the following week.

The Chair (Mr. Garfield Dunlop): Everybody has seen that motion. Questions?

Ms. Lisa MacLeod: If I may put a friendly amendment forward that we also include Bill 70, the treating spouses act, for one day of public hearings, advertisements on the Ontario parliamentary channel, the committee website and the Canadian NewsWire.

Mr. Bas Balkissoon: Mr. Chair, that could be a separate motion. I don't think it's relevant to this one.

Interjection.

Ms. Lisa MacLeod: Yes, it's before the committee right now.

Mr. Bas Balkissoon: I'm happy to deal with that after.

The Chair (Mr. Garfield Dunlop): So you've all heard the motion. Those in favour of Mr. Balkissoon's—

Interjection.

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Steve Clark: I would like to ask for a 20-minute recess.

The Chair (Mr. Garfield Dunlop): Are the members ready to vote?

Interjections.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Clark, you've asked for a 20-minute recess. Granted; we'll recess for 20 minutes. When we come back, we'll vote.

The committee recessed from 1312 to 1332.

The Chair (Mr. Garfield Dunlop): Okay, guys, the 20-minute recess is up. To members of the committee, we have a motion in front of us moved by Mr. Balkissoon. We've had a chance to look at that. I'm going to ask for the vote.

Interjection.

The Chair (Mr. Garfield Dunlop): Pardon me?

M. Gilles Bisson: Comment ça va aujourd'hui? It's okay.

Mr. Bas Balkissoon: I caught it.

Mr. Gilles Bisson: He caught on.

Mr. Bas Balkissoon: I caught on quick.

The Chair (Mr. Garfield Dunlop): I caught on, too.

Mr. Gilles Bisson: I want to tell you that I'm very offended.

The Chair (Mr. Garfield Dunlop): Okay. All those in favour of Mr. Balkissoon's motion? Those opposed? That motion is carried.

Mr. Gilles Bisson: Just for the record, I want to acknowledge that the Tories and Liberals are now in a coalition and working together in concert. It's just interesting to see that they do these kinds of things together.

The Chair (Mr. Garfield Dunlop): Thank you for that comment. Mr. Clark?

Mr. Steve Clark: I was just surprised by that comment because I thought, from reading the minutes of the last meeting, that there was consensus to move forward with this bill. I'm just a little surprised by his comments that really don't make any sense.

Mr. Gilles Bisson: Just for the record?

The Chair (Mr. Garfield Dunlop): Mr. Bisson.

Mr. Gilles Bisson: To Mr. Clark, the deputy House leader or deputy whip, whatever you might be, you would know that there are discussions ongoing with House leaders, and this is not helpful to that process. You'll remember this moment.

The Chair (Mr. Garfield Dunlop): Okay. Any other comments? Mr. Clark, you had a motion?

Mr. Steve Clark: No, I just would like a little bit of a break just to refine the motion, if that's acceptable to the committee.

M. Gilles Bisson: Excusez-moi, monsieur le Président. À ce point-ci je pense qu'on a besoin de discuter de cette matière-là en français.

Mr. Steve Clark: Can we take a break?

Mr. Bas Balkissoon: He asked for a 20-minute break.

Mr. Steve Clark: There are no motions on the floor; I just want a bit of a break. I'm working on a motion.

The Chair (Mr. Garfield Dunlop): Mr. Clark was asking for—I was under the understanding you had a motion coming forward.

Interjection.

The Chair (Mr. Garfield Dunlop): You don't?

Interjections.

The Chair (Mr. Garfield Dunlop): Mr. Bisson?

Mr. Gilles Bisson: I move adjournment of the committee.

Ms. Lisa MacLeod: If I may—look, I think we have got business before us. We have bills piling up—

The Chair (Mr. Garfield Dunlop): Ms. MacLeod, his motion takes precedence right now.

Mr. Bisson has moved adjournment of the committee. All those in favour? All those opposed? The committee is adjourned.

The committee adjourned at 1334.

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Second Session, 40th Parliament

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Deuxième session, 40^e législature

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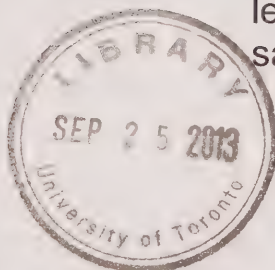
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Standing Committee on the Legislative Assembly

Non-profit Housing
Co-operatives Statute Law
Amendment Act, 2013

Comité permanent de l'Assemblée législative

Loi de 2013 modifiant des lois
en ce qui concerne
les coopératives de logement
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 11 September 2013

Mercredi 11 septembre 2013

The committee met at 1203 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Garfield Dunlop): Good afternoon, everyone. We're here today to do the second reading on Bill 14, An Act to amend the Co-operative Corporations Act and the Residential Tenancies Act, 2006 in respect of non-profit housing co-operatives and to make consequential amendments to other Acts.

We have a full agenda here today, and we have some housekeeping items as well. Mr. Mantha.

Mr. Michael Mantha: I move a motion to have Cindy Forster on the subcommittee.

The Chair (Mr. Garfield Dunlop): Replacing?

Mr. Michael Mantha: Replacing Mr. Gilles Bisson.

The Chair (Mr. Garfield Dunlop): We have a motion moved by Mr. Mantha that Mr. Bisson is replaced by Ms. Forster on this particular committee, on the subcommittee. Agreed to that? Okay, that's carried. Thank you.

Mr. Balkissoon.

Mr. Bas Balkissoon: Mr. Chair, I have a motion to move.

I move that the Standing Committee on the Legislative Assembly conduct clause-by-clause consideration of Bill 14 during its regularly scheduled meeting time on Wednesday, September 18, 2013; and

That an administrative deadline for amendments to Bill 14 be set for Friday, September 13 at 12 p.m.; and

That, should the above date conflict with this committee's consideration of Bill 95—this is the financial officer—clause-by-clause review of Bill 14 will be conducted on the next regularly scheduled meeting of the committee on which no conflict with Bill 95 exists.

The Chair (Mr. Garfield Dunlop): Do we have any discussion? Mr. Clark.

Mr. Steve Clark: Certainly from our perspective, we're not going to be belabouring a lot of questions today to the witnesses. We'd be quite prepared to do the clause-by-clause today if time permits. With all respect to the motion, I would be more than happy to just deal with it on September 11 rather than the 18th.

Mr. Bas Balkissoon: Mr. Chair, maybe the Clerk can explain. What's the time frame for this committee meeting under normal rules? I thought we end at—

The Clerk of the Committee (Mr. Trevor Day): This committee must end at 3 o'clock.

Mr. Bas Balkissoon: Okay, so we have an hour.

Mr. Steve Clark: Not to belabour it, Chair, but I'm certainly not seeing any amendments on this. This was a bill that we've debated many times in the Legislature. Certainly I have no objections to—let's do clause-by-clause today, if time permits.

Mr. Bas Balkissoon: We're in agreement.

The Chair (Mr. Garfield Dunlop): You're in agreement?

Yes, Mr. Clark.

Mr. Steve Clark: Not on this motion, but I do have another issue I want to talk about that was adjourned from the last meeting.

The Chair (Mr. Garfield Dunlop): Okay. So on this particular—oh, Ms. Forster.

Ms. Cindy Forster: Thank you. We may possibly have an amendment, so I wouldn't be prepared to do clause-by-clause today.

The Chair (Mr. Garfield Dunlop): You would be?

Ms. Cindy Forster: I would not.

The Chair (Mr. Garfield Dunlop): You would not be. Okay.

Mr. Rob Leone: It's a majority vote, isn't it?

The Chair (Mr. Garfield Dunlop): It is a straight vote today, Mr. Leone.

Mr. Rob Leone: What are we voting on? Are you withdrawing that motion?

The Chair (Mr. Garfield Dunlop): We're voting on whether to do clause-by-clause today.

The Clerk of the Committee (Mr. Trevor Day): No, no, the motion on the floor.

The Chair (Mr. Garfield Dunlop): Oh, the motion on the floor. Sorry.

Mr. Rob Leone: So we're withdrawing that?

Mr. Bas Balkissoon: Is he amending my motion? How are we taking—

Mr. Steve Clark: I would like the motion amended: that if time permits today, we deal with clause-by-clause on September 11.

Mr. Bas Balkissoon: Okay, so we should take the amendment first.

The Clerk of the Committee (Mr. Trevor Day): So what we have is your motion, at the end of which, if time permits, we begin today. Is that agreeable to everybody? Ms. Forster?

Ms. Cindy Forster: Well, it's not agreeable to me, because we may, in fact, have an amendment after we hear from the deputants. How can you say you're going to do clause-by-clause and vote on this issue when you haven't even heard from the people who have been waiting to come and make their presentations for months? Based on that, I can't support this motion. And I don't think it's normally the way things operate around here, either, I'm told.

The Chair (Mr. Garfield Dunlop): Mr. Leone, did you have a question?

Mr. Rob Leone: No, I didn't have a question, but we're voting on an amendment, so—

The Chair (Mr. Garfield Dunlop): So we're debating the amendment. Do we have—

Mr. Rob Leone: I like the amendment. That's what I'll add.

The Chair (Mr. Garfield Dunlop): So we've got some support for the amendment, if we have time today—if time permits.

Mr. Bas Balkissoon: Mr. Chair, I just want to clarify. My colleague—is she saying that she has a clause-by-clause amendment she would like to present?

The Chair (Mr. Garfield Dunlop): I'm not sure if she does, but she may—

Ms. Cindy Forster: I may well have, after I hear from the deputants.

Mr. Bas Balkissoon: Can we play with the words, that we break for 20 minutes and the clause-by-clause amendments be submitted?

The Chair (Mr. Garfield Dunlop): Actually, Mr. Balkissoon, we have a full schedule here today.

Mr. Bas Balkissoon: Okay. Then my motion stands.

The Chair (Mr. Garfield Dunlop): We're talking about the amendment right now. Do we have support for the amendment, which would mean we'd do it today?

Mr. Bas Balkissoon: Well, we'll respect our friends in the NDP, that they want to present clause-by-clause amendments.

Mr. Steve Clark: Call the question on the amendment.

The Chair (Mr. Garfield Dunlop): Okay. So we're voting now on the amendment. In favour of the amendment?

Mr. Steve Clark: Recorded vote.

The Chair (Mr. Garfield Dunlop): Recorded vote? Okay.

Ms. Cindy Forster: Can you read the amendment?

The Clerk of the Committee (Mr. Trevor Day): Okay. The original motion was:

"I move that the Standing Committee on the Legislative Assembly conduct clause-by-clause consideration of Bill 14 during its regularly scheduled meeting time on Wednesday, September 18, 2013; and

"That an administrative deadline for amendments to Bill 14 be set for Friday, September 13 at 12 p.m.; and

"That should the above date conflict with this committee's consideration of Bill 95, clause-by-clause review of Bill 14 will be conducted on the next regularly scheduled

meeting of the committee on which no conflict with Bill 95 exists"; and

"If time permits, clause-by-clause consideration would commence today."

Ms. Cindy Forster: That's the amendment?

The Clerk of the Committee (Mr. Trevor Day): That's the amendment.

The Chair (Mr. Garfield Dunlop): Yes.

The Clerk of the Committee (Mr. Trevor Day): A recorded vote on the amendment.

Ayes

Clark, Leone.

Nays

Balkissoon, Crack, Forster, Fraser, Mantha, Mauro.

The Chair (Mr. Garfield Dunlop): The amendment doesn't carry.

Now we'll go straight to the motion. Any more debate on the motion, then?

Ms. Cindy Forster: No.

The Chair (Mr. Garfield Dunlop): Shall it carry? Carried. All right.

Mr. Clark.

Mr. Steve Clark: Mr. Chair, at our last meeting in June, I think that if you check Hansard, I was attempting, with the committee's indulgence, to present a motion regarding Bill 70, a private member's bill that is before this committee. I just want to let you know that, prior to adjournment today, I'd like to have the opportunity to table a motion—and I would circulate it to them—that, after consideration is done on Bill 14, we call Bill 70. I can read the motion, or we can deal with it—we'll deal with it later.

The Chair (Mr. Garfield Dunlop): We'll deal with it later, provided that we have time.

1210

Mr. Steve Clark: I'd just like the committee to afford me an opportunity to have a vote on that, given the fact that we moved adjournment before I had a chance to table it in the last meeting. I think out of respect, we should at least have that opportunity.

The Chair (Mr. Garfield Dunlop): Okay. Thank you, Mr. Clark.

NON-PROFIT HOUSING CO-OPERATIVES STATUTE LAW AMENDMENT ACT, 2013 LOI DE 2013 MODIFIANT DES LOIS EN CE QUI CONCERNE LES COOPÉRATIVES DE LOGEMENT SANS BUT LUCRATIF

Consideration of the following bill:

Bill 14, An Act to amend the Co-operative Corporations Act and the Residential Tenancies Act, 2006 in respect of non-profit housing co-operatives and to make consequential amendments to other Acts / Projet de loi 14, Loi modifiant la Loi sur les sociétés coopératives et la Loi de 2006 sur la location à usage d'habitation en ce qui concerne les coopératives de logement sans but lucratif et apportant des modifications corrélatives à d'autres lois.

MR. KEN DEMERLING

The Chair (Mr. Garfield Dunlop): Now we're going to proceed to the deputations this afternoon. The first deputation is from Mr. Ken Demerling.

Mr. Demerling, we have 15 minutes in total. You have five, and each of the parties will have three minutes to ask you questions.

Mr. Ken Demerling: Well, you've changed the way I'm going to start. Your discussion was really quite offensive. When you look around this very grand building, this building was put together for good governance. Speeding through a piece of legislation to save money is not good governance.

I would not know about this piece of legislation if it weren't for the lawyer for my co-op. The co-op federation and the board of directors of my co-op have not advertised, have not presented this to the members. You are putting legislation through to affect people's lives, and you have not told those people what you're doing.

Good governance should take priority over cost. When I look at the debates in the House, when I talk to the MPPs, it's all about cost. This is not what this building was put together for.

According to the city of Toronto department overseeing co-ops, there are 36 pieces of legislation that impact residential co-ops in Ontario. You, as a committee and a Legislature, are planning to put another one to make it 37. Co-op housing is housing. Why is the main legislation covering co-ops an addendum to financial and farmer co-op legislation and not under municipal affairs and housing? When Toronto's housing corporation has been severely criticized for the use of the landlord and tenant tribunal, why is the Legislature planning to add co-ops to the tribunal?

In the government's original press release for Bill 14, it says we're offering safe and secure housing. Now, in my particular co-op, last week a resident was issued an eviction notice for bedbugs. Instead of having the co-op fix his bedbug problem, he had the city of Toronto do it. They didn't like that.

But the main part I'm here about, my main thrust, is that tenants in straight rental buildings get one-stop shopping. The tribunal that they're using, they go to for any problems they have with the landlords. The way you're setting up this co-op legislation, only the co-op boards can take a member to the landlord and tenant tribunal. The only way a co-op member can take their co-op to any accountability is to sue them. How many co-op members know how to do that, have the money to do it? Then,

when the word gets around that you're suing the co-op, you're a pariah and considered evil.

If you are going to go through with Bill 14, give members of co-ops the same privileges of straight rental buildings: one-stop shopping, so that we can go to the landlord and tenant tribunal for all our problems, because, in reality the board becomes our landlord, no different than any other rental building, except commercial landlords operate on principles without gossip and personal issues. Having only one party to a contract gaining access to a tribunal is Stalinist and may not stand a court challenge.

If you're wondering where my political stand is, I'm a John MacBeth Conservative, which is part of all of you. He was for good governance first. He wasn't worried about money first. He was worried about good governance, and he was a good manager of money.

To quote Calvin Coolidge as a state legislator before he was president, "It is much more important to kill bad bills than pass good ones."

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Demerling. We now have opportunities for each of the parties, for up to three minutes, to respond to Mr. Demerling or to ask him questions.

Mr. Clark, for the Progressive Conservative caucus.

Mr. Steve Clark: Thanks very much, Chair. Through you to Mr. Demerling, I want to thank you very much for your presentation. I appreciate some of the emails that you've sent me with some of your ideas.

Very quickly, I've just got one question. You talked about notice and how you found out about this. What do you recommend that issues around co-ops—how do you recommend that we communicate that to members?

Mr. Ken Demerling: Well, there are no controls. Our city supervisor, who's on the sunshine list, controls six co-ops. We never see him. We have a problem with our board—"I'm only worried about the money. I'm not worried about problems."

I had problems; the president and the vice-president stopped talking to me. I wrote a letter to our lawyer. The lawyer and I get along quite well; we agree to disagree. And so that caused a big hoopla.

I've gotten threats—only the vice-president knew this information—to move out of the co-op. Other people have gotten threats. We need real supervision. FSCO: I can't figure out what they do. Nobody seems to be controlling. Everyone says, "Oh, that's somebody else's problem." We do not have one-stop shopping for a problem.

And remember that anyone behind me who speaks, who says they have a well-run co-op, are one election away from having a badly run co-op.

Mr. Steve Clark: Thank you.

The Chair (Mr. Garfield Dunlop): Any other questions?

Mr. Steve Clark: No, I'm good.

The Chair (Mr. Garfield Dunlop): Ms. Forster or Mr. Mantha, from the NDP caucus?

Ms. Cindy Forster: Thanks, Mr. Demerling, for being here. Nice to see you again.

So what solutions do you see to improve the co-op situations that you're addressing here today?

Mr. Ken Demerling: Someone to talk to about a bad board. We don't have anyone to talk to when we get a bad board, when we get a little dictator. You people are not just in politics. Before you were here, you were on boards, good ones and bad ones. We need someone to talk to when we have a board that's out of control.

Ms. Cindy Forster: Is there not a democratic process, though, under the co-op act for boards—

Mr. Ken Demerling: People are afraid.

Ms. Cindy Forster: —for people to actually deal with those issues?

Mr. Ken Demerling: On paper. Communism works on paper; it doesn't work in practice. And in co-ops, especially people who are on rent geared to income, which is now dictated by the province to be 50%—they are afraid to open their mouths. They feel threatened that they could be evicted at any time.

So we need someone who's proactive to come in and say, "Okay, this is working" or "No, this person has to settle down and remember that they were elected by the members and they're not here to dictate to the members."

Ms. Cindy Forster: Thank you.

The Chair (Mr. Garfield Dunlop): Mr. Mantha?

Okay, to the Liberal caucus then: Mr. Mauro.

Mr. Bill Mauro: Thank you, Mr. Chair. Mr. Demerling, thank you for being here this morning. How much time, Mr. Chair; I'm sorry?

The Chair (Mr. Garfield Dunlop): You have three minutes.

Mr. Bill Mauro: Two themes: You're speaking a fair bit about money and you're speaking a fair bit about your challenges with your board and local governance. So I'm understanding or assuming that you do not have any appeal mechanisms internally for the decisions of your board. So my question is, the board is elected by the co-op members?

Mr. Ken Demerling: That's correct.

Mr. Bill Mauro: All right. And how long of a term are they elected for?

Mr. Ken Demerling: One and two, and the maximum they can be on, in a row, is four years.

Mr. Bill Mauro: Okay. I guess I would state some of the obvious. It's the same—like, there are some MPPs that constituents feel should be re-elected and others that they feel shouldn't be, and so on and so forth. Trying to address your concern about your board—the mechanism that exists for you to deal with your board would be at the next series of elections.

But what I wanted to talk to you about was your theme. You spoke a bit about money, and I'm not completely sure on what your criticism is when you—

Mr. Ken Demerling: The debate in the House and the co-op federations, which by the way, I pay for but I have no access to—

Mr. Bill Mauro: Right.

Mr. Ken Demerling: I pay monthly. When you look at their websites, it's all about a thrust that the members are the enemy and we're telling boards how to tell members what to do. I'm talking your debate in the House, really. It's about, "This is going to save money for co-ops." No, it's going to add bad governance.

1220

Mr. Bill Mauro: I'm taking up on the point you mentioned. You're paying for the board members. Currently under the system, if you wanted to challenge an eviction as a co-op board member, you have to go to court. So if it was you individually who was challenging that eviction, you'd be paying the court cost for the co-op board and individually you'd be paying your own costs. You'd be paying both sides of it as I understand it. This is the main theme of what we're trying to accomplish here. As an individual co-op member, I'm wondering how you feel about that piece of—

Mr. Ken Demerling: If you give us a two-way street so that members can go to the tribunal when they have a problem with the board, go ahead and pass it.

Mr. Bill Mauro: I see. Got you. Thank you.

The Chair (Mr. Garfield Dunlop): Time is up, there, Mr. Mauro, so, thank you. Mr. Demerling, thanks so much for your time today.

MS. SHARON DANLEY

The Chair (Mr. Garfield Dunlop): Our next person on the agenda is Sharon Danley. Sharon? Welcome to Queen's Park. Go ahead whenever you wish, Sharon.

Ms. Sharon Danley: Thank you for giving me the opportunity to speak to this committee today.

This bill has been put together with very little, if any, input from our sector, and that is the resident-members of co-ops. It is heavily skewed in favour of boards of co-ops, staff, and CHF, which has clearly lobbied government heavily in their favour.

CHF only represents boards of co-ops and not the members of co-ops. Resident-members' interests are often in conflict with unruly boards. CHF has written by-laws to more easily evict members and helped to make the evictions process easier with contributions by lawyers like Bruce Woodrow, who is in the eviction business and on his website states that the "Ontario government has been promising to make evictions cheaper and simpler. It hasn't. We are." One way to make it simpler is to remove the rights of the resident-members, isn't it?

Fear of reprisal is palpable in poorly run co-ops, and the resident-members are some of the most vulnerable people in the city, mixed in, of course, with professionals of all description. Eviction is a punitive tactic often used by boards with hidden agendas and staff in retaliation to resident-members for speaking up, questioning what should be questioned, or standing up for others who are being threatened and intimidated.

As we understand it, a co-operative board can bring resident-members forward to the Landlord and Tenant Board for eviction, yet resident-members become

second-class citizens before the Landlord and Tenant Board because they cannot bring forward issues of maintenance, sanitation, harassment, questionable practices or reprisals. They're all being intimidated by boards and staff.

The other thing that further underscores our major concern is section 25—subsection 36(6). The act is repealing “an employee of the board,” and replacing it with “an employee in the board.” What is that? Does that make the employee part of the board rather than in service to the board? This is a huge potential problem.

Section 171.20, please explain this—I haven't got time to read it—as I can't wrap my head around the complete, unfair disregard for the law against the most vulnerable people by removing their right to equality before the law and giving all the favour to those who abuse it. This is draconian at the very best.

Co-ops that don't operate according to the Co-operative Corporations Act or the bylaws are the problem. In the OWN housing co-operative, resident-members have been given different variations of the same bylaws. The bylaws are not kept up to date and new members aren't even receiving bylaws as required. The staff's incompetence is well documented, and they have a proven record of reprisal for anyone who speaks out. So how are resident-members supposed to defend themselves, let alone call to task these entrenched problems?

Evictions are used as a threat by badly run co-ops. I was an example of a co-op's deliberate act in trying to illegally evict me, a senior citizen with a disabled daughter, shortly after I had made deputation in this very building about Bill C140. Not until I filed for a judicial review with the city of Toronto did the city do their job finally and—

The Chair (Mr. Garfield Dunlop): You have a minute left, Sharon.

Ms. Sharon Danley: Sorry?

The Chair (Mr. Garfield Dunlop): You have one minute left on your—

Ms. Sharon Danley: Thank you—immediately revoke their attempt to evict me. However, at the budget meeting directly after that revocation, the president of the board, Gerald Walker, said, “I do not recognize you and I do not recognize this court order” when I wanted to speak about questionable things in the budget. I was denied not only my right but my responsibility to contribute as a healthy and responsible co-op member. Our co-op has spent \$30,000 in unnecessary legal fees to try to prevent accommodation of a disabled person and in trying to evict me. That's outrageous.

An industry seems to be being built around the evictions of co-ops. What needs fixing is the problem at the source. The staff and boards of co-operatives must be held to a lawful standard of transparency and accountability that is part of the original architecture of the co-operative movement. And the city of Toronto and province of Ontario need to intervene as required by the acts, and include the resident-member stakeholders far more than what is being done.

How can we work together to get it right and make it fair, responsible and dignified for everyone? This bill is not the answer. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much, Sharon. We'll now go to the NDP caucus. You have three minutes to ask questions.

Ms. Cindy Forster: Thank you for being here today to talk about this important issue with us, Sharon. Are you actually opposed to this bill?

Ms. Sharon Danley: I'm opposed to many things in the bill, and I would agree with the former deputant that if you're going to put co-ops into the Landlord and Tenant Board, then make it fair. Don't just say that the co-op staff and board can take members in to be evicted, but members can't speak to the board with respect to all kinds of problems that are being handled by unruly, wrong co-op staff and boards.

Ms. Cindy Forster: Right. So I'm assuming, from your presentation today, that you have specific problems within your co-op.

Ms. Sharon Danley: Yes, we do.

Ms. Cindy Forster: Have you ever run for the board or have you tried to run a slate of people to—

Ms. Sharon Danley: Do you know something? When I say that it makes it impossible, there is a tight-knit community; fear of reprisal is huge. When you have vulnerable people, older people, disabled people, and the fear that something will happen to them if they step up or speak out or don't vote the way they want you to vote, you don't have a fair situation here.

What I think would be great is if every board of co-ops had an outside, objective board member that had no ties, but an objective board member to make sure the accountability and transparency was brought forward. The misuse of confidentiality is outrageous. All of those things would be made more transparent. When you have transparency and accountability, things run better.

Ms. Cindy Forster: Thank you.

The Chair (Mr. Garfield Dunlop): Mr. Mantha, do you have any questions?

Mr. Michael Mantha: Yes. Could you give me a little bit more as far as how you envision implementing your solution where you say, “to the lawful standard of transparency and accountability that is part of the original architecture of the co-op housing system”? Give me a little bit more meat to what you're saying.

Ms. Sharon Danley: Sure. First of all, the city of Toronto needs to step up to the plate. When complaints are made to the city about poor management, about questionable budgeting practices, about making it difficult for disabled people etc., the city of Toronto does nothing. That's a big problem right there.

Why is the province of Ontario—when nothing happens at the city level and we go to the province of Ontario—not doing anything to make sure that the city does what they should be doing? I know it was downloaded to the city, but there is a responsibility, I believe in the Co-operative Corporations Act somewhere—sorry; I don't have it off the top of my head. But those two

areas alone, plus having a third-party, objective board member, would be great. It would be worth the drive to Acton and to have maybe a board, a committee, a group where co-op members could go and be heard. There isn't anything for them right now, and with this bill, it entrenches and makes it worse. I'm not saying all co-ops are bad, but the ones that are, it gives them way too much power to further fearmonger the resident-members.

1230

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the Liberal caucus.

Mr. Bill Mauro: Thank you, Chair. Ms. Danley, thank you for your presentation; passionate and well-informed.

The issues that seem to be at the core of your presentation, that you seem to be most bothered by, are, as I understand it, issues that currently are not within the purview or the mandate of the RTA. It seems to be the experience that most people believe that the Residential Tenancies Act and the tenant tribunal seems to do a pretty good job of dealing with tenancies. The focus of what's trying to be accomplished here is to try and provide a vehicle that is more fair and balanced for both sides.

I guess I'm trying to say that the issues that you're raising, that I seemed to glean from your presentation that you're most concerned about, seem to be issues of internal governance. So I guess my question to you is: What's contained today within your co-operative's by-laws that allows you an opportunity to address some of the pieces? I was going to try and have some of this conversation with the previous deputant, Mr. Demerling, but time did not permit.

I'm working on a bit of an assumption here that there must be some tools at your disposal already, within your bylaws, within your governing structure as a co-op, that allow the membership to try and address some of your concerns, and I'm just wondering why you're looking for this bill to fix that if in fact there already might be tools there.

Ms. Sharon Danley: Two problems: First of all, like I already stated, there are supposed to be ways to fix this, but when people step up, they're reprimed. Look what happened to me: When I spoke about a bill last year, I got a notice of eviction two weeks after I made a presentation. That's the kind of thing that happens.

Mr. Bill Mauro: Okay, and under the old system, to deal with that eviction, you'd have to represent yourself at court in a very expensive way.

Ms. Sharon Danley: Yes, but the problem that I have with this, though, is—

The Chair (Mr. Garfield Dunlop): You have a minute left on this answer.

Ms. Sharon Danley: —there are several other things in here where, if there's "an irregularity in the content or service in any form," that's okay. If "an irregularity in conduct of the meeting" of a co-operative is wrong, that's okay. An "irregularity in the conduct of the meeting of the members" of the co-op pursuant to: That's okay. An

"inadvertent failure to comply with any time requirements": That's okay.

Why is that okay? Why is it that all the favour is given to the boards and nothing for the resident-members? That's my problem with this bill. If this bill was equal—

Mr. Bill Mauro: But this bill doesn't create that; that's what's there now. So the focus of the bill is to try and make that eviction notice that you just suggested was given to you—in the past, how much money would it have cost you to try and fight that eviction?

The Chair (Mr. Garfield Dunlop): The time is up for the questioning in this, so we'll maybe carry on. Mr. Clark.

Mr. Steve Clark: Sharon, I just want to thank you for coming and telling your story. I know sometimes how hard it is, and the frustration that you've had.

I don't really have a question, but I do take some of your suggestions very seriously. One of your suggestions about having the outside objective board member: I'm interested because I know, in my constituency—

Ms. Sharon Danley: Excuse me. I'm sorry; I can't hear the gentleman here.

The Chair (Mr. Garfield Dunlop): Folks, just keep it a little quieter. Thank you.

Mr. Steve Clark: In my constituency I've had two co-ops for decades, and I've been pretty close to them because I was a former municipal politician as well. I don't know that we've had the same experience that you've had, but I do take your suggestions very seriously. Thank you for telling your story today.

Ms. Sharon Danley: Thank you.

The Chair (Mr. Garfield Dunlop): Mr. Leone, do you have any questions?

Mr. Rob Leone: No. Thanks.

The Chair (Mr. Garfield Dunlop): Okay, then. Sharon, thank you very much for your time this afternoon.

Ms. Sharon Danley: Thank you.

ATHOL GREEN CO-OPERATIVE HOMES INC.

The Chair (Mr. Garfield Dunlop): We'll now go on to our next presenter. That's Ken Hummel from Athol Green Co-operative Homes Inc. Mr. Hummel.

Mr. Ken Hummel: Good afternoon, everyone.

CHF Canada and the Agency for Co-operative Housing indicated co-ops across Canada have a significant number of co-ops in difficulty, and in many cases it's due to poor management and governance.

A survey and research highlights dated April 2003 noted co-op housing with associative difficulties attributable to poor management, collusion, lack of interest and lack of competencies that include lack of participation, little interest in training, no understanding of the co-operative formula—a tenant's mentality—a non-existent, inadequate, disregarded management structure, a lack or improper exercise of leadership, and interpersonal con-

licts that include abuses of power, cliques, favouritism and fraud.

Of the 533 federal program co-ops in the agency's portfolio, the majority are over 25 years old. Many co-ops have been poorly maintained because of deferred maintenance and the costs of replacing aging building components.

There are approximately 225 federal government program non-profit co-ops, with 20,683 households. Of those, 12,943 households represent 22,000 low-income Ontarians. Federal program co-ops will continue to calculate member housing charges that include rent-geared-to-income housing charge subsidy calculations.

CHF Canada offers its member co-ops model bylaws as part of a risk-based management strategy that include agreements that the co-op resident member must pay back all or part of a member's subsidy if the member receives a larger subsidy than the member is entitled to.

The internal process at Athol Green Co-operative Homes Inc., a federal program co-op, has failed to resolve issues in regard to co-op RGI subsidy calculation forms for some 20 years, with the board of directors refusing to remove subsidy credits of up to \$150 per month that each co-op member is not entitled to receive, not adding revised utility allowances that may lower housing charges for rent-geared co-op members eligible for subsidy, and lack of segregation of allowable RGI member subsidy assistance.

Athol Green co-op member housing charge debts and credits have not been acknowledged and resulted from incorrect RGI subsidy calculations performed by board members or management staff. A resident co-op member offer for a settlement of debts has not been acknowledged by the co-op board of directors and management.

No provisions exist in Athol Green co-op RGI subsidy agreements to hold accountable co-op board of directors and staff calculating member housing charges due to error, negligence or willful negligence. They owe co-op members a duty of care. Board of directors and management need to be held accountable, and held accountable to a higher standard of care.

Legislation proposed in Bill 14 would not allow co-ops and co-op members to apply to the Landlord and Tenant Board to seek remedies for disputes relating to housing charges, maintenance or any other grounds under the Residential Tenancies Act. Housing charges and maintenance issues would be addressed through the co-op's internal process mandated by the Ontario Co-operative Corporations Act.

CHF Canada and its Ontario region lobbyist have lobbied members of provincial Parliament to fast-track Bill 14 into law that may allow its member co-ops to be held less accountable by preventing individual residents from addressing and exercising their legal rights on housing charge disputes, maintenance or any other grounds through the LTB and RTA. Ken Hummel urges parliamentarians not to fast-track Bill 14 into law.

Bill 14, in its current draft, removes the requirement of a duty of procedural fairness in consideration of the

"merits of the case" the court system offers resident co-op members on issues related to housing charges and maintenance issues. The current draft of Bill 14 will result in sanctions that include evictions of co-op member residents that should never occur. Bill 14 does not protect the most vulnerable co-op members with modest or low incomes.

Bill 14 needs to be amended to permit co-ops and co-op members to make applications to the Landlord and Tenant Board to seek remedies on housing charge disputes and maintenance issues that include access to mediation services under the Residential Tenancies Act.

Co-op member residents need an adjudicator on the Landlord and Tenant Board that may ensure decisions related to housing charge disputes, maintenance issues and evictions are procedurally fair, done objectively and impartially, without prejudice.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Hummel.

We'll now go to the Liberal caucus. Mr. Balkissoon?

Mr. Bas Balkissoon: Thank you, Mr. Chair, and I thank you for your presentation. I'm trying to struggle with this, based on the previous two deputants, so bear with me a little bit.

1240

Currently, if you have a dispute with your co-op board based on the things you just mentioned, you have to go to court.

Mr. Ken Hummel: Yes, I do.

Mr. Bas Balkissoon: The board also would have to go to court if they have a similar dispute from the opposite side.

Mr. Ken Hummel: They would have to respond.

Mr. Bas Balkissoon: Yes, but if they wanted to take you—to find a resolution, they'd have to go to court. Both sides will be spending a lot of money. This bill that is in front of us does not change that at all. Are you aware of that?

Mr. Ken Hummel: I understand what I read in my presentation here, that a few key issues are not going through the Landlord and Tenant Board, and that is housing charge disputes and maintenance issues.

Mr. Bas Balkissoon: Okay. Now, I'm looking at what we're doing here. As a co-operative, the more money your board spends going to court with lawyers etc. against its own tenants, that actually adds to its budget, and it's collected through the monthly rent from each member that lives in the complex. So what we're doing here, if it was restricted in a sense to deal with tenants—or I should say members—who are in arrears or members who are conducting an illegal activity in their unit or members who are interfering with the reasonable enjoyment of the complex by other members, would that not be an appropriate situation where the board has the opportunity to go through a cheaper process, which is the Landlord and Tenant Board, to deal with those types of issues? Because it really deals with the enjoyment of the other members of the co-op and it also deals with you keeping your budget expenditures to a minimum.

Would you not agree that if we just did that, that would be appropriate?

Mr. Ken Hummel: I support reform, eviction reform, okay? But you have to have equality in coming before the Landlord and Tenant Board.

Mr. Bas Balkissoon: I hear you.

Mr. Ken Hummel: Members need to be able to have access to the Landlord and Tenant Board to deal with issues about a problem board of directors and managers.

Mr. Bas Balkissoon: Okay, but the Landlord and Tenant Board does not deal with those types of issues for regular tenants today, so what you're asking us to do—I think it needs that both the membership in co-ops and maybe the co-op federation get together and come back to the government to change the co-op act to provide that mechanism, because tenure issues are not in front of the rental tribunal as you may perceive it today. They're very definitive. So the things you're talking about, which is governance, the members who are elected to your board—in a regular rental building, there is no board. There's a landlord; there's one person.

The Chair (Mr. Garfield Dunlop): And with that, your time is up on that, Mr. Balkissoon, but you've got that point across.

With that, we'll go to the Conservative caucus.

Mr. Steve Clark: Yes, thanks very much, Chair. I'm going to be quick.

Ken, thank you very much for coming. I know we've engaged on social media before. I'm glad you've got your day before the committee. I'm proud that you're here and you've got your comments on the public record. And I know of your frustration with some of the things that you think needed to be added to the system.

I know that I've had a conversation in the House about the Landlord and Tenant Board proper and to try to take the discussion away from this committee. I happen to think that we, as legislators, should have a broad discussion about the Landlord and Tenant Board and allow tenants and landlords—and have a very robust discussion across the province on what needs to be changed, on what tenants think needs to be changed, on what landlords think needs to be changed. I think we have to have it all out there at some point, separate from this discussion on Bill 14.

But I'm glad to finally meet you and I'm glad you're here.

Mr. Ken Hummel: I agree with the previous presenters: This bill, as is proposed and drafted right now, is absolutely lopsided. It's for the board and management. It's stealing away member rights.

Mr. Steve Clark: Thank you.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Hummel.

Anything else, Mr. Clark?

Mr. Steve Clark: No.

The Chair (Mr. Garfield Dunlop): Okay. We'll now go to the NDP caucus. Ms. Forster?

Ms. Cindy Forster: Thanks very much, Mr. Hummel, for being here today and for sharing your thoughts with us on Bill 14.

So just to kind of clarify from the other two questions that you had, you're not opposed to reform around the eviction piece. You're not opposed to using the Landlord and Tenant Board process—

Mr. Ken Hummel: Absolutely not.

Ms. Cindy Forster: —over the court system for the eviction piece.

Mr. Ken Hummel: No, that's fine. I agree with reform, but it should be equal for the individual members as well as the board of directors and management of these co-ops.

The two aspects that I mentioned in my brief about disputes about housing charges and maintenance issues are set aside because of the lobbyists that are wanting to fast-track this bill, and I think it's disgusting.

Ms. Cindy Forster: Thank you very much. Mike, do you have anything?

Interjection.

Ms. Cindy Forster: Thank you.

The Chair (Mr. Garfield Dunlop): Mr. Hummel, thank you very much for your presentation today.

CO-OPERATIVE HOUSING FEDERATION OF CANADA, ONTARIO REGION

The Chair (Mr. Garfield Dunlop): The next deputant will be the Co-operative Housing Federation of Canada, and it's represented by Dale Reagan and Harvey Cooper. You have five minutes, and then presentations. Please proceed.

Mr. Dale Reagan: My name is Dale Reagan. I'm the managing director of the Ontario region of CHF Canada. With me today is someone I think all of you know: Harvey Cooper, our manager of government relations. Thank you very much for the opportunity to make a brief deputation to you today. We are here representing 550 housing co-ops across the province, home to more than 125,000 residents. We urge the members of this committee to support Bill 14, and after you've heard deputations and considered them, to move the bill, without delay, through to the Legislature for third reading.

As you know—as you've heard from us many times before, and as you will hear from other deputants today—reform of the co-op eviction system has been a major priority for our members for more than 10 years. In fact, it's come to no fewer than five annual meetings of CHF Canada's Ontario region, and at each of those meetings it has received near-unanimous support from the several hundred participants in the room. There have been many opportunities for it to be reviewed and for members to engage in the process and express their support for it.

We wanted to take the opportunity today to thank members of all three parties for their consistent and strong support for this legislation that has allowed it to

move to this point today. After our brief deputation, we will of course be happy to answer any questions that people have.

This bill, as many of you have spoken about in the House, has had a long history at Queen's Park, and I'm sure most of the committee members are familiar with the public policy benefits that will come with it. We don't have time today to go into the problems the bill needs to fix and how the legislation will do that. You have our full brief that reviews those issues.

I did want to take a few minutes, though, to respond to some of the points that we've been hearing from some of the earlier deputants, particularly the issue that this bill will benefit co-ops and it will compromise the rights of individual members, because that would certainly be a concern to us as well if we felt it were the case.

At the outset of this process, our members set some goals for reform. The new system needs to work better for co-ops as landlords, but equally importantly, it needs to protect and, in fact, enhance the rights of individual members. The current court-based system isn't as fair as it should be to co-op members, especially those of low income. Let me highlight a couple of ways in which that is the case.

First of all, it discriminates against those who can't afford a lawyer or can't get access to legal aid. The truth is that, at this point in time, legal clinics simply don't have the resources to make legal aid available. Secondly—and this is a bit of an obscure issue, but it's a crucially important issue—in most cases, the co-op member in court doesn't, in fact, get a full hearing of their case. The judge, rather, defers to the decision of the co-op and reviews only the process that they used to make sure that it was fair—the process that they used to reach the decision.

Under the new system, co-op members will continue to have access to an internal process for resolving disputes—a right, I might add, that no other form of rental housing provides—but Bill 14 will add significant additional protections for individual members. At the Landlord and Tenant Board, members won't need a lawyer. They will be able to represent themselves or use a paralegal. The process will be less complicated and quicker. Mediation services will be available to give—

The Chair (Mr. Garfield Dunlop): You have a minute left, sir.

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Mr. Dale Reagan: —another opportunity to resolve matters. At the LTB, the adjudicators will consider the case from scratch on its merits rather than deferring to the decision of the co-op. So, fundamentally, the member will get a new hearing.

Bill 14 will add significant new benefits for the co-op, but crucially it will add new protections for individual co-op members.

The Chair (Mr. Garfield Dunlop): You've got about 30 seconds if you have any further comments for your presentation, and then we're going to go to questions.

Mr. Harvey Cooper: Maybe I'll just wrap up quickly—30 seconds. We heard from a number of some of the co-op deputants about the bill being fast-tracked. We'd love it to be fast-tracked. As many people in this room know, this is the third time this legislation has come to Queen's Park. It was first introduced back in 2009. The co-op sector as a whole—that's the co-ops that we represent—first initiated this reform a decade ago, so it has certainly had a fair bit of scrutiny at this point.

We thank you for our brief deputation and invite the opportunity to answer any questions and discuss Bill 14 further.

The Chair (Mr. Garfield Dunlop): Okay. With that, we'll go to the Conservative caucus. Mr. Clark?

Mr. Steve Clark: Thanks, Chair. Through you to Dale and Harvey, I just want to take the opportunity—I think the Co-op Housing Federation of Canada probably holds the record for the most days sat in the gallery at the Legislative Assembly. I had high hopes to get this bill passed before, but as most people know, the previous Premier prorogued the Legislature for four months. It's disappointing that we were in a holding pattern. I think we could have had a lot of consultation and discussion with members and boards. All I have to say is, thank you very much for your patience.

The Chair (Mr. Garfield Dunlop): Is there anything else, Mr. Clark?

Okay, we're going to go to the NDP caucus. Ms. Forster?

Ms. Cindy Forster: Thank you. I want to thank Dale Reagan and Harvey Cooper for being here today. We're finally here, although you've been here much longer than I have on this issue. If you wouldn't mind, I'd like you to maybe spend a little bit of time talking about some of the issues that the previous speakers talked about with respect to wanting to expand the scope of this bill on the subsidy issues, the maintenance issues and the board issues. If you wouldn't mind spending a couple of minutes just talking about that and how that can get resolved.

Mr. Dale Reagan: Yes. I think the key point here is that the circumstances of a co-op member versus a tenant in a private rental situation are fundamentally different. If a tenant has a problem, they go to their landlord or to their manager and they complain. Then it's up to the manager whether they respond to that complaint or not. A co-op member also has the opportunity to raise an issue when they want some action, and they'll get a response. The difference is, in a co-op, the process for that response is democratically controlled. Members have an opportunity, through that democratic process, to influence the decision. They can raise the issue with the board of directors. They can run for the board of directors and add their voice in the co-op at that level. Members in a co-op approve the budget. They decide what the priorities are for the year. They decide what they're going to spend for maintenance through a collective process. That is fundamentally different and gives co-op members fundamentally more rights to determine the direction and deal with any issues that they have in the co-op.

There is a proactive and a positive set of opportunities for co-op members. There are also opportunities under law for them to address matters that may be a concern to them. They can go to court to have an inspector appointed. The Financial Services Commission of Ontario can launch an inquiry if a co-op member has raised concerns. We've seen that. There have been some recent examples of that where FSCO has gone in and asked a co-op to respond to certain sets of issues. There are rights in Small Claims Court. There are municipal avenues. You have the oversight of the program regulator, the service managers, where, very often, matters are raised with them, and they return to the co-op to address those matters.

The circumstances are fundamentally different, and at the heart of that is the democratic control in a co-op.

The Chair (Mr. Garfield Dunlop): A quick comment, sir?

Mr. Harvey Cooper: On the governance issues—I don't know how much time we've got left. We heard from some of our co-op friends about those issues, which might be a little bit tangential to the bill, but I think you've got to look at this holistically.

We have over 550 co-operatives across the province—125,000 people. The average co-op has 200 to 300 people living in it. They elect the board from amongst themselves, as Dale mentioned. It is not surprising, because these are people's homes—we love to hear the passion, and we know that passion, because the members themselves have brought that issue to us as a democratic association. They struggle with issues just as families struggle with issues, as communities struggle with issues. To expect 200 to 300 people to agree each and every time on each issue can be challenging.

The difference is: In a co-op, they have a voice, they have a vote. Periodically, you're going to get, amongst 125,000 people, somebody who feels their co-op or a few people aren't running well.

We work with those co-ops and those people every single day of our lives. What we encourage them to do is—they actually have the means; they have the structure. It's not some absentee landlord. The landlord is them; they're the people next door. We spend a lot of time and resources trying to ensure that co-ops can resolve any issues in an amicable way.

But, just as in the Legislature—we were pleased to be there this morning and hear the spirited debate. In each and every of those 550 co-ops across the province, you get that same spirit, that same passion, and we, as an association, get it ourselves because they are us. They're the ones who pay us and elect us, our board, and we appreciate that discussion.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the Liberal caucus.

Mr. Bill Mauro: Thank you, Mr. Chair. Gentlemen, thank you for being here. Three minutes goes by very quickly, but thank you for reminding us all that all three parties have supported the bill to this point. I'm slightly surprised by Mr. Clark's comment about somehow the government side being responsible for holding this legis-

lation up. That's a bit of a surprise. Nevertheless, there have been a couple of very serious comments made here by members of the co-ops. I'd like you, as quickly as you can, to address them. It's somewhat consistent with Ms. Forster's comments.

One, the language was used that this legislation is "stealing" members' rights. I'd like to hear your thoughts on that, and if you could specifically tell me what lessens a tenant's protection in this legislation.

Number two, how currently—you've addressed it a little bit here already—they're able to address some of the non-RTA-related issues that they have internally within the board as it's currently constructed.

Mr. Dale Reagan: Okay. I'll speak on the first part and Harvey on the second.

As to how this protection, in fact, enhances the rights of individual members: Under the current process, because it's a process that ends up in court, if it goes that far, right from the very beginning, not only the co-op but the member has to be acting in a way to protect their legal rights. If they are to protect themselves fully, they really should be engaging a lawyer from the beginning.

The way it works is, the court will scrutinize the internal process. It will look very closely at how it was conducted. The member, as well as the co-op, has to follow the rules that are there, and can easily get those wrong.

Obviously, especially low-income members cannot afford a lawyer. Access to legal aid services is much reduced. Most legal clinics simply will not take on these kinds of cases. So this more accessible, more affordable, quicker process will be of benefit to members.

The second point is that the key one that—under this new bill, when they get to the tribunal, the tribunal judge will say, "Okay. That's what the co-op decided, but we're going to look at this thing from scratch. We're going to look at it on its merits, and we're going to make our own decision." So the member gets their day in court, or at the tribunal, to make their case, which they don't currently have, where the judge just reviews the process.

Mr. Bill Mauro: Thank you.

The Chair (Mr. Garfield Dunlop): Okay. You have about 30 seconds, guys.

Mr. Harvey Cooper: Just quickly: Mediation is also built into the LTB process. It's difficult to cover a number of those issues, but let me just say in general, because some of them were outside the purview of eviction reform or the Landlord and Tenant Board: What we would hope is, because the LTB, compared to the court system, is an expedited system, particularly that is the most divisive thing that ever happens in a co-op for obviously the member, but for their peers. For the people on the board and the general members to actually displace somebody from their home—that is the absolute last thing a co-op ever wants to do. What, in fact, causes further distress is that it drags out for years and it becomes extremely, exorbitantly expensive, not only for the co-op—and these aren't deep-pocketed community-based organizations—but the poor member.

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Hopefully, with the reform, it will be a lot fairer, not only to the co-op and the board which represents the co-op, but most importantly, as we have said, it creates a level playing field for that member. They can go to an expedited system where lay people are used to defending themselves, as opposed to the Ontario court system. We just see this as a win-win-win: It's a win for the government, it's a win for the co-op and most, importantly, as the members—

The Chair (Mr. Garfield Dunlop): Thank you very much, sir.

BLUE HERON CO-OPERATIVE HOMES

The Chair (Mr. Garfield Dunlop): We'll now go to Blue Heron Co-operative Homes. Michelle Bainbridge is making the presentation. Michelle, welcome.

You have five minutes, Michelle. Proceed.

Ms. Michelle Bainbridge: Thank you very much. Good afternoon. My name is Michelle Bainbridge, and I've been working in the co-op housing sector for over 20 years as a staff person in the Ottawa area. I'm currently working at the Blue Heron Co-op, and have been since it opened in June 2006. The Blue Heron Co-op is located in the Kanata North area in the city of Ottawa and is in the riding of Carleton-Mississippi Mills, represented by MPP Jack MacLaren.

Blue Heron Co-op has the distinction of being the pilot project under the CMHC-Ontario Affordable Housing Program Agreement enacted in 2002. Our co-op has a total of 83 units consisting of 58 apartments and 25 townhouses. We have over 100 members and approximately 40 children living in our community. We provide rent subsidies to 59 individuals and families on low and fixed incomes so that they can have a clean, safe, affordable home.

A co-op operates on a not-for-profit basis, and in our case the rent each member pays is the only source of income; we do not receive any operating bridge subsidies like other co-ops get. If a member does not pay their rent, we cannot pay our bills.

A co-op is usually very reluctant to commence the eviction process as we know it is a very long, difficult and expensive endeavour, with no promises of success. It can divide a community and cause lots of tension between members, friends and families.

At Blue Heron, we work with our members when they find themselves having difficulty paying their rent. I often go over how to budget their finances with them, enter into payment agreements if they fall into arrears and do just about everything possible to avoid evictions.

The example I bring to your attention is the case of a household that, over the summer of 2009, fell into arrears. This household was asked to meet with the board to discuss the matter in October of that year. Since they did not attend that meeting, the co-op board began the eviction process in November by issuing the notice to appear to meet with the board, and the eviction date was

January 31, 2010. We extended this date by a month, as we felt that a December 31 eviction date would not be appropriate.

The members did not attend that board meeting, nor did they appeal the board's decision to evict them to the co-op's membership, which is their right under the co-op act and the co-op's bylaws. The household did not move on January 31, the eviction date; therefore, we hired a lawyer the next day to apply for a writ of possession in court. The total amount of the arrears at this point had now grown to over \$9100.

It takes a lot of documentation and a lot of time to prepare an application for the writ. Since the court only takes applications for writs a few days a month, we missed the March filing deadline, and our lawyer was not able to file until April. A court date of May 28 was set to hear the application.

The members retained legal counsel three days before the hearing and requested an adjournment in order to have time to prepare their defense. This is a fairly common tactic used to delay this process. The hearing was rescheduled to July 15, in which the judge granted the co-op the writ of possession for the unit, and it was effective for August 1. The judge determined that the total amount of arrears to be paid was over \$13,300.

Thankfully, the members moved out without incident by July 31; however, there were significant repairs needed to the unit that the co-op had to pay in order to make it ready for occupancy for the new members. It took eight and a half months, from November 2009 to July 2010, to go through this process. The cost of legal services incurred for this one eviction was over \$7,700, and the total amount the co-op lost in combined revenue and expenses was over \$21,000.

You might not think that \$21,000 is a lot of money, but for us, we could have paid for a playground for the kids in our co-op to play on, or to buy a screen door for each of the units to keep bugs out of the homes. We currently budget \$6,000 a year in legal fee costs, or the equivalent to the average cost of one eviction. This is an astronomical amount compared to the \$170 filing fee to the Landlord and Tenant Board that our non-profit cousins and private landlords currently pay.

The Chair (Mr. Garfield Dunlop): You have about 30 seconds left, ma'am.

Ms. Michelle Bainbridge: I thank you for the opportunity to speak to your committee to help highlight the real need for eviction law reform that non-profit housing co-op communities across the province are desperate for. Eviction law reform has been a priority for housing co-ops in Ontario since 2004, when the first resolution was passed. Since all three political parties support this bill, I am hopeful that it will be passed quickly. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much, Ms. Bainbridge. We now go to the NDP caucus for their comments. Any questions?

Ms. Cindy Forster: Thanks so much for being here today. It's great that you actually brought us a real example, because we often deal in amounts of money but

we don't really put a personal spin to the actual facts of the situation. What I'm hearing from you is that you're fully in support of this bill. Do you have any comments with respect to the previous speakers and problems that they encounter with respect to perhaps rogue boards or the issues of maintenance complaints or other types of problems that may not be addressed by this particular bill in your particular co-op?

Ms. Michelle Bainbridge: In our particular co-op, I am thankful that we do have a good democratic organization. We have a good board that is looking at improving themselves and learning how to govern the organization. There are resources available through a local resource group in Ottawa; it's CHASEO, the Co-operative Housing Association of Eastern Ontario. There's the CHF Ontario region as well as CHF Canada, which provide resources for co-ops to learn. They can take workshops and online courses on governance and management. My members come and see me all the time, and I work with them if they run into problems. I've had people lose their jobs. What do they do? Are we supposed to start evicting them because they can't pay the rent because they don't have a job? I do everything in my power. When an eviction like this takes an awful lot of time, it takes me away from being able to look after the administration and the requests of other members as well.

Ms. Cindy Forster: Do actual members have the right to make a request to the board to attend some of these educational opportunities that are available in the province or in your particular region?

Ms. Michelle Bainbridge: In our co-op, we encourage that. I've worked in six different co-ops in Ottawa over 20 years. In every co-op that I worked for, I always made it a priority to engage the members. That's how you're going to have succession planning for your board of directors. If you have other members who are involved in that process and know that there's education and training opportunities out there, then they in turn can run for the board themselves.

Ms. Cindy Forster: Are there actual fixed terms under your particular bylaws or under legislation that board members can only sit for X number of years without taking a break?

Ms. Michelle Bainbridge: That is correct, yes. Our bylaws state two consecutive two-year terms, so four years. Sometimes it could be a little bit more if they were appointed to fill in the balance of a vacancy, but maximum two elections, so four years, typically.

Ms. Cindy Forster: Thank you very much.

The Chair (Mr. Garfield Dunlop): Now to the Liberal caucus. Mr. Mauro.

Mr. Bill Mauro: Ms. Bainbridge, thank you for being here today. I was involved in the management of social housing in Thunder Bay for 15 years. I take very seriously the concerns that have been expressed here today by the tenants, and I can also take very seriously and understand the example that you describe in your presentation. I've seen both sides of this issue very clearly for 15 years.

Having said that, I'm a bit dismayed by the tenor of the conversation here today. We might leave here today with the assumption that this is a bit of an "us against them" situation, even though all three parties are supporting the legislation. There may be some changes being brought forward. Given my experience—and I was not involved with co-ops at all—I would have to believe that in your circumstance, there would be a lot of tenants who were quietly or maybe not-so-quietly supportive of your work when it came to evictions. I've had some experiences with some really bad folks who can really affect the ability of the other tenants and, in your case, co-op members to enjoy their property and to raise their children in a safe environment. I'm just trying to get you to speak a little bit to me to try and do away with this "us versus them" atmosphere that seems to be here today in terms of what happens with the other members in your co-op when you get yourself involved in an eviction. Rent arrears is rent arrears, but when we deal with issues where people are affecting the ability of somebody else to safely raise their children and enjoy their property—I'm interested if you could just speak to that a little bit in terms of where you find yourself.

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Ms. Michelle Bainbridge: Well, it does have an impact. If you have a household that tends to be a little bit noisy, they're not abiding by the bylaws, it creates a lot of animosity amongst the other members. I've actually had good members move out because they say, "You know what? I can't deal with that. You're not doing anything; you're not evicting them. I'm not going to stay because I don't find it's a safe place for my kids." Or late-night parties, noise—

Mr. Bill Mauro: So it's not just a management-versus-a-tenant piece, is what I'm trying to drill down to. Oftentimes, there could be support from tenants in a building and co-op members for what the management is trying to do so that they themselves can enjoy their property and their home—it's their home—and raise their children in a safe way.

Ms. Michelle Bainbridge: Exactly.

Mr. Bill Mauro: Do I still have a bit—

The Chair (Mr. Garfield Dunlop): You have 30 seconds.

Mr. Bill Mauro: Is there anything in this bill you would change or make any suggestions to us that you might—

Ms. Michelle Bainbridge: At this time, no. It doesn't cover everything, but it sure as heck is a lot better than the current process that we have. I do find that it is more equitable, as Harvey and Dale had said. A lot of low-income families or individuals might not have access to legal representation through the court system in the length of time that it takes. Whereas here, they will get a full day in court, as well as the co-op management will be able to deal with the situation a lot more quickly and a lot more effectively.

Mr. Bill Mauro: Thank you.

The Chair (Mr. Garfield Dunlop): Thanks very much, Michelle.

Mr. Clark?

Mr. Steve Clark: Thanks very much, Michelle, for coming in. Again, I want to echo the comments from my colleagues here today about giving us the example. Certainly I want to point out that your example shows some members who moved out without incident. So we're talking \$21,000 for a situation where there was, in effect, no incident. At the end, it could have been a lot more, so I appreciate that.

The other thing I want to do is just put on the record about your member of provincial Parliament, Jack MacLaren, who I know you have educated very well in the benefits of co-operative housing. I know that after he visited your facility, he was a bit of a fan and a bit of a cheerleader for co-ops.

One of the things that we miss when we deal with legislation like this is the fact that co-ops, for the most part—there are always pros and cons. Believe me, there are always good examples and bad examples, to me. I'd love to hear your comments about the fact that maybe we should be trying to, as three parties, encourage more co-op development in our local communities. So I'd love to hear, given your experience, what you would say to that.

Ms. Michelle Bainbridge: Well, I think the co-operative model is a better model compared to other forms of rental housing.

Yes, there are issues; there are problems. Sometimes I've heard of other co-ops where you get a certain group that get into control of the board of directors, but the members, as a group, do have the capacity to remove the board members if they feel that they're not making the best decisions in the interests of the members. There are mechanisms in place in the bylaws and the co-op act that provide for that.

It is unfortunate, and I have seen it in other communities, where an individual may feel that they aren't able to speak up, but they need to be able to rally their members because yes, there will be people who will support them. And if they have numbers, they have security and safety.

Mr. Steve Clark: You've got term limits, too.

Ms. Michelle Bainbridge: Me? No.

Mr. Steve Clark: No, not you, but the board. You were talking earlier about the term limits.

Ms. Michelle Bainbridge: Yes, the board. Our board does.

Mr. Steve Clark: That's an interesting concept.

Ms. Michelle Bainbridge: Yes, because it does—

Mr. Steve Clark: I won't belabour that. I have my own views.

Interjection.

Mr. Steve Clark: No, that's fine. Thank you.

The Chair (Mr. Garfield Dunlop): Michelle, thank you so much today. Thanks for being here.

ATAHUALPA CO-OPERATIVE HOMES

The Chair (Mr. Garfield Dunlop): Our next deputant is Nicole Waldron from Atahualpa Co-operative Homes. You have five minutes, ma'am.

Ms. Nicole Waldron: Don't you love that name?

The Chair (Mr. Garfield Dunlop): I had a bit of problems with it, I guess.

Ms. Nicole Waldron: You did it well.

Good afternoon, everyone. I am Nicole Waldron and I am a proud member of Atahualpa Co-operative Homes. I have lived there for 19 years. I am pleased to speak to the committee this morning—or this afternoon, as the case may be—regarding Bill 14.

Atahualpa is located in the Kingston Road and Brimley area and we have 79 units with approximately 120 members. Over the years, in this vibrant, beautiful community—because I really love my community and some of the co-ops around that I have visited—I have sat on various committees. I have sat on a board; I have sat on a member selection committee; I have sat on a social committee. You name them, I've been there.

Over this time, I've had the opportunity to speak and deal with members who are facing financial challenges and end up in arrears. That brings us to why we're here today.

We have had to develop a more assertive approach, unfortunately, to dealing with arrears due to the cost factors all around and, at times, the open disregard by some members—not all individuals—for paying their housing charges—what currently is known as rent in the other world—in a timely manner.

Here's some of part of our process at Atahualpa Co-op. Within three days, we start correspondence with our members to let them know: "As a reminder, your housing charge is due." We continue to work with them in that month to see if we can resolve the issue that they're facing financially. It will involve, at first, correspondence and phone calls from our manager. If it's not resolved with a performance agreement or some sort of arrangement put in place, it then comes to our board of directors, and the process goes on from there.

In the instances where the issue is not resolved, where in most cases the member is not adhering to the performance agreement they have set out with the manager of the co-op, they then have to end up coming to the board and we try things like, "Let's do some sort of credit counselling; let's do some sort of seeing if there are any loans that you can get, because sometimes you can get it from the rent bank."

We really go through a very extensive process, working with our members, because, as you can imagine, the thought of having to evict your neighbour is heart-breaking. Sitting at a board table, it is excruciating. I can tell you, I have cried at board meetings, having to actually think of having to evict a member.

As we move forward and we recognize as a board that there are times when a member may have a blatant disregard or an open disregard for not paying their hous-

ing charge, we have to go to the next step, which is an eviction process. It is costly for our co-op, it is costly for the member and it is time-consuming all around to our staff and the people that volunteer their time as board members to deal with this process.

I'm going to give you two examples of instances where we have had to reach that final stage of eviction.

We had a case that started in October 2008 and ended on January 29, 2009. It took three months for the legal process, with a \$2,400 bill. The unpaid arrears were over \$3,700, with a total cost to the co-op of over \$6,000.

The second case, which you may find interesting, started in January 2011 and ended May 27, 2011, a four-month process. Legal fees: over \$7,000; outstanding arrears: \$6,500; damages to the unit by the member: \$2,500—a cost to the co-op of \$16,000.

The interesting fact with this case: When the eviction was decided by the co-op, the member appealed to the membership, which is part of the process. The membership heard her story, believed her and that in good faith she was going to pay back the money. In fact, she didn't. Hence, we had to go back through the process and ended up with this \$16,000 bill.

As you can clearly see from these two examples I've shown and from what I've just said, our process is extensive and the burden is heavy upon members. The monies and time that Bill 14 will save co-ops—not just my co-ops but co-ops all over the country—will be phenomenal. When I think of what we could have done with the loss that we have incurred, and when my colleagues prior have spoken of—and I understand maintenance issues, but we have processes in place to deal with those things. This in fact hurts when you have to deal with aging housing stock and you have to deal with building infrastructure. So \$16,000 could have gone a long way, over time.

The Chair (Mr. Garfield Dunlop): About 30 seconds, ma'am.

Ms. Nicole Waldron: Thirty seconds, and I'm wrapping up.

So today, I implore you to really consider Bill 14. I know that our members at Atahualpa Co-operative Homes; the members that I have sat with in the AGMs—the last 10, 12 years, I've gone to the AGMs—I know that they support this bill almost unanimously. You will have one or two who won't, but I'm telling you, at our AGMs all across Canada, they have said, "Yes, let's push this bill forward." So today, I thank you for your time and I really pray and hope that you will push this bill through.

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The Chair (Mr. Garfield Dunlop): Well, we're trying to. You can tell by our time frame here.

We'll now go to the Liberal caucus for comments. You have three minutes. Mr. Mauro.

Mr. Bill Mauro: Thank you, Mr. Chair. Thank you, Ms. Waldron, for being here. I want to be clear: You're here today as a 19-year member—

Ms. Nicole Waldron: Veteran.

Mr. Bill Mauro: —veteran member, experienced member of a co-op, speaking as someone who lived in a co-op for 19 years and who has served in a variety of capacities on various committees within that co-op, very much supporting this bill.

Ms. Nicole Waldron: Yes, sir.

Mr. Bill Mauro: So, as I said in my earlier comments, there have been what I consider to be a couple of very serious comments made in terms of what the legislation would be doing to co-op member rights. As somebody who has got almost 20 years of history, it's maybe a bit unfair of me to put you in the position of speaking directly to other co-op members—and I don't mean to put you in a bit of an adversarial position—but I think it would be relevant, certainly for me, who continues to learn about these issues, for you to give me your perspective (1) that this bill somehow is minimizing existing rights for co-op members, and (2) if you have time, a bit about what your internal processes already allow you to accomplish.

Ms. Nicole Waldron: I think from what we heard when Harvey and Dale spoke, it really doesn't minimize the rights of a member. In fact, it actually gives them more rights as a member, because they have more of a process. When I had to deal personally, as a board member, and listening to the process—it's quite expensive having to go and find a lawyer, to try and find legal aid, and it actually delays the process for them. The member sits in limbo as to what they can do. So this bill really does help them in more ways than one: that they can get mediation help, that they can bring a friend who may be a little more well versed in how to deal with things and have that friend sit with them in that mediation process. So, in fact, it can work to the member's advantage. When the tribunal is going to hear the case from the beginning, not just based on what the legal nuances are in the court, it really would help a member, I would think. From all the readings I've done, all the questions I've asked as a member, I feel quite content that they would be in a better position. I wouldn't be here if I didn't believe that was true.

The Chair (Mr. Garfield Dunlop): Anything else? Now to Mr. Clark.

Mr. Steve Clark: Thank you very much, Chair. Ms. Waldron, can I call you Nicole?

Ms. Nicole Waldron: You can call me Nicole.

Mr. Steve Clark: Now, Nicole, I tell you something: If Dale and Harvey don't get you out visiting every co-op in the province of Ontario and helping the education process, I will not be very happy with them. And they'd better bring you here on October 1 for their lobby day.

Ms. Nicole Waldron: I will be right there.

Mr. Steve Clark: You'd better make sure. They'd better give you the mike—

Ms. Nicole Waldron: I have my ticket. I have the ticket.

Mr. Steve Clark: —because I think you're the poster child for promoting co-ops, so I want to make sure I see you on October 1.

Ms. Nicole Waldron: I'll be there. I'll be there with bells on.

Mr. Steve Clark: The one thing I want to just raise is the fact that you've given us two examples: one that was a fairly short time—they're only three years apart. But the difference in cost for a three-month to a four-month dispute, in your two examples, was \$10,000. What I'm trying to say is, it just shows the example of, when you get down this road, it can add up very quickly.

Ms. Nicole Waldron: Very quickly. It all depends on the housing charge. The housing charge is really going to establish what some of that cost is. If somebody is on subsidy and they have a smaller housing charge versus somebody who is on market rent—and subsidies vary. So it can really differentiate between how much it's going to cost.

To be quite honest, when you get to the point when you have to evict a member, it's really a member who really doesn't have the best interests of their neighbours in mind, because if you were really concerned about your neighbours and the people whom you've been living with for a few years, you would not get to this stage. I always tell members, "Pick up the phone and call. We are willing to work with you. We don't want to see you on the street—winter, spring, summer or fall." My son was born in a co-op, and he is 18 years old today. My nephews were born in a co-op. My whole family lives in co-ops. I have friends who live in co-ops. We're really good people, but I will not sit here and be naive and say that there are not people who live in co-ops who take advantage of the system. They are people who know the system. They go from co-op to co-op or from building to building, and they play the game. Those are the ones who really hurt everyone in the long run.

Unfortunately, as much as I am sympathetic and empathetic to what other members have been experiencing in co-ops where there may be some challenges in governance—we do our best as a co-op sector to make sure that members are educated. I know, in my building, for instance, we make sure that education is key. All members are invited to be educated on the process. We have a very great process on how to become a board member, how to be a leader, how to make these decisions. It's not a willy-nilly system. It's a system that works, as you can see, and it's a system, I believe—and I'll say, yes, we need more co-ops.

The Chair (Mr. Garfield Dunlop): Thank you very much.

Mr. Steve Clark: What a perfect way to end.

The Chair (Mr. Garfield Dunlop): We'll now go to the NDP caucus.

Ms. Cindy Forster: Thank you very much, Nicole, for being here today. I just have a couple of questions for you. You've got tenure, certainly, with your co-op. How many evictions would you say there have been in the 19 years that you've held a variety of positions?

Ms. Nicole Waldron: I was actually trying to get that number for you today, but my staff person is overworked and I couldn't get that number for you. There haven't

been that many, maybe one every few years. It all really depends, because we really try hard not to have an eviction happen. It's the cases that sit on the books, that sometimes people will—and here's the thing: You may have evictions but then you may have people who you tell that they need to pay their housing charges and they abandon the unit. She's given me three cases right now that people have walked out and abandoned their unit because they refuse to pay the housing charge. It's kind of hard to say how much money we have lost over the years and evictions we've had to deal with, over the 19 years.

Ms. Cindy Forster: Right. And when you talked about, the housing subsidy kind of moves, depending on the tenant, do you still continue to get that housing subsidy while you're going through the eviction process?

Ms. Nicole Waldron: Yes, because a person is still on a limited income, so it shouldn't really affect them. They may end up losing their jobs or—there are so many different circumstances, so they still are entitled to their subsidy.

Ms. Cindy Forster: And then the other issue that was raised was around the issue of confidentiality.

Ms. Nicole Waldron: Yes.

Ms. Cindy Forster: So at your particular co-op—and I'm just throwing this out as an assumption—the member-tenants are not aware of the eviction unless they request a process to air their problems in front of the—

Ms. Nicole Waldron: I'll sum that up in one minute for you. The manager gets the case. The board knows nothing about it until it becomes a problem. When I go to a board meeting and it comes before me, I still don't know who it is, until they have to show up. We deal with tenants—our members; sorry—with numbers. We give each member a number for their case. The only time the entire membership will know is if the member himself or herself has decided to appeal the process. Then it becomes public knowledge in that co-op that that person is in arrears and is facing an eviction.

We're all bound by the privacy act, so we're very, very, very protective of privacy and confidentiality, and if a board member—it's in the bylaws. If a board member breaks confidentiality, we have the ability to remove them from the board.

Ms. Cindy Forster: Thank you.

The Chair (Mr. Garfield Dunlop): Mr. Mantha? You've got a few seconds.

Mr. Michael Mantha: Just a few seconds? Beyond the board member, is there another individual that a resident can go and complain to or further pursue it, like a service manager?

Ms. Nicole Waldron: There's the manager in the co-op—that they can go and get some help. I live in Toronto. Sometimes members will call CHFT and ask for some help, because it is a member-driven organization. Our members are the people who live there. Sometimes some people will even call their councillors for help; sometimes they will even call the city for help. There are

many places someone can go for assistance if they need help, and if they find a roadblock, go to the next level.

Mr. Michael Mantha: And that service manager is beyond the board members?

Ms. Nicole Waldron: Yes.

The Chair (Mr. Garfield Dunlop): Thank you very much.

Ms. Nicole Waldron: Thank you.

The Chair (Mr. Garfield Dunlop): Nicole, it's been a pleasure having you this afternoon.

Ms. Nicole Waldron: See you on the 1st.

The Chair (Mr. Garfield Dunlop): Okay.

CENTRAL ONTARIO CO-OPERATIVE HOUSING FEDERATION

The Chair (Mr. Garfield Dunlop): Our next deputant is the Central Ontario Co-operative Housing Federation, and Carine Nind, the president. Carine?

Ms. Carine Nind: Hello.

The Chair (Mr. Garfield Dunlop): How are you? You have five minutes.

Ms. Carine Nind: Thank you. Not only am I on the Central Ontario Co-operative Housing Federation, but I also live in a housing co-op. I've been working with co-ops for the last 26 years and I currently work with Willowside Housing Co-op in Kitchener. I hate putting all these hats on here, but I'm an educator as well and I did overhear some questions about education, so that will be great.

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When I first met with John Milloy, who is our MPP in Kitchener, we were presenting our feelings and our process about what we wanted as far as this change in our eviction procedures. At first I was not in support of it because I believed in one member, one vote. The co-ops communities themselves could manage.

But over the time in working with this one co-op that I've worked with for the last 10 years directly in providing neutral chairing with co-ops that are in difficulty or co-ops that are appealing—a member has appealed a decision of the board, and they've asked for an outside chairperson; I've been that person. Also, being on the COCHF board of directors and listening to some of the co-ops that are in difficulty, and knowing that much of the challenge is when a community has not got its governance, its management, connected, where persons who feel that they can overstep the boundaries of responsibility, of benefit, end up pushing the envelope such that a community—I've watched boards who got nervous about issuing eviction notices because of the energy of that person. I've watched communities try to defend an individual—one or two people in a meeting, saying that they thought that they should keep this person who's in arrears because, "After all, we've got vacancies and this will only be one more vacancy." I'm sure you can put the dots together to connect that that's not the option for filling your units. It's not by saying that you'll hang on to those

who aren't being accountable and responsible to begin with.

The co-op that I work with is currently faced with a process of going to the court system because of a member who, for four years, was a real challenge for many members.

Let me tell you about the co-op I work with. It's two apartment buildings, 91 units, more than 18 nationalities. Sixty-nine of the units are rent-geared-to-income, so that's 22 full-market. Fifty-eight of the units are "deep core" need. It's a lingo that they use in defining categories of high need, which they are. We have the physically challenged. We have three people who are illiterate. We have many different—I want you know. It takes in all of them.

They have, in the 25 years—this is their 25th anniversary this year—grown from acting like they were children in kindergarten and having big responsibility for big buildings and lots of money to the point now where they have a four-page code of conduct: conflict of interest; can't be in arrears if you're running for the board. They do a process. They repeat that each year, and every member gets a copy of what's involved in coming on that board, being elected, and what they're to uphold.

As I say, they have an eviction that they have succeeded—the member appealed—I need to take a drink of water. Sorry.

The Chair (Mr. Garfield Dunlop): And you have a minute left.

Ms. Carine Nind: All right. Hopefully, you'll ask me more questions, because I could keep going on.

The member appealed. We had a very good turnout: 41 people. The membership took turns asking questions; the individual responded. But they responded in a fight-back attitude, using foul language. Some members left. When the vote came, it was 36 votes. We always encourage the member who's being considered be a part of the ballot counting. It's a secret ballot. It's outside of the room. The ballots came back, 21 saying, "Please, you must leave," 14 saying, "You can stay."

That individual has subsequently decided, "I'm not going. You're going to have to do something about it." That whole process began probably in the beginning of the year. By April, the co-op board had decided that the best thing they could do is—and they even recommended—"You need to take this to the members. We can't continue to hear all these things, and you deny them. We need to have it go before the membership." When they did that, that individual, unfortunately, did not recognize what they could do differently.

I want you to know that there are things like illegal activities. There is—this person's on rent-geared-to-income—having others pay for rooms in that unit—serious, serious reasons.

The Chair (Mr. Garfield Dunlop): Okay.

Ms. Carine Nind: You want me to stop?

The Chair (Mr. Garfield Dunlop): Yes. Your time is up. Thank so much.

We'll now go to the Conservative caucus for questions. Mr. Clark?

Mr. Steve Clark: Thanks very much for coming today and telling your story.

Ms. Carine Nind: Thank you.

Mr. Steve Clark: I appreciate the level of detail you gave us about the two buildings. Happy anniversary. Do you think that the strength, the longevity, is based on that democratic model that co-ops make up? I'd love to hear your comments.

Ms. Carine Nind: Thank you. It has been something that, when I got involved in co-ops, I believed, but I didn't have any proof of it. After 26 years of working directly with housing co-ops and then participating in the many different ways, I'm a firm believer that we make big mistakes by not having people—no matter what their income, no matter what their background—able to collectively make their own decisions. Yes, it takes guidance. This community had all kinds of challenges in the past. But they have grown to say, "This is what we expect."

They're not mean. We just had a barbecue, and they did halal food so that everybody in the community can come. They have a pet policy that allows three dogs, even though many of the members—in apartments; can you believe it? But the city says you can have three, so they went with it. The people with dogs and the people without dogs came to that meeting. Now they agree that those with dogs—if someone says, "Please, can you step back?" they will, and they'll wait for the next time to get the elevator.

I see the challenges in other co-ops, in other communities that haven't grown that way. They're still in kindergarten and they're still tossing mud. It costs a lot of money when we don't have a process that is fair not only to the individual who is being held accountable but also to the community, and that makes the community stand accountable as well. It's local and it's less costly.

I don't think you'll see a lot more running to that process, but I do think it will assist. We had one situation in 25 years, and that cost us \$8,000. That individual owed us money to begin with and just stayed until we finally got the sheriff and all of those things. It's hard for the community; it could have been a lot more seamless. I'm certainly still an advocate for appealing within the membership, having the person have the right to speak about how they felt in front of the members. But if, after that, the community is saying, "No, you really haven't got it. You're still willing to behave the way you were and you're not going to pay," or whatever, then we need a way to seamlessly be able to deal with it, close. Certainly the court system doesn't. I don't believe they want us there. I'm sure they've got many other things to do.

Mr. Steve Clark: Thank you for coming.

The Chair (Mr. Garfield Dunlop): Thank you. Now to the NDP caucus.

Mr. Michael Mantha: I was really enjoying your comments that you were making earlier. One of the strengths I have is, I listen a lot. I tend to keep my words

short. I can't believe the Chair interrupted you when you finished your words, so we were talking amongst ourselves here, and we want to let you have your time to finish talking about your experiences in your co-operative. So by all means, the floor is yours.

Ms. Carine Nind: Wow. Thank you very much. I didn't write anything because if I'd written it, you'd have a book.

Mr. Michael Mantha: That's probably why we're enjoying it. It's from the heart.

Ms. Carine Nind: In fact, that's one of my appeals. I would like to do that. I would like to write the co-op story first-hand: how a community can, with good leadership. We now have requirements in co-ops, those that are downloaded and those that are related with the federal and the agency. You now must have board training. You can't be on a board of directors without getting that training. You can't just ask Joe Blow to come in and do it. It needs to be someone who's an adult educator in co-operatives.

The fine-tuning of good management and good governance is a really, really—it's a model that I think we should go forward with, I really do. I think we'll have more people being accountable.

The individual whom I told you about who's been appealing: Had this individual not had their housing charge paid by social services, they would have been in arrears, was in arrears; and then they addressed that, and now they pay directly so it's not in arrears. And it's more sticky when it's conduct, when it's behaviour that is not supported by others—and frightful for some of them. There are a lot of scary people coming around. This community has been inclusive, has welcomed a lot.

We have a young lad, Nikola. His mum has mental health issues, and he is severely autistic and didn't get a lot of guidance when he was younger. Now he stands six feet tall, he's about 13 years old, and his temptation is to walk right up to your face and yell at you, "Deal or no deal?" or that kind of—recently, we changed our laundry equipment in one of the buildings. It's a smart card. It's like a credit card that you use to get the laundry done and to pay for it. So we had these information meetings because a lot of people were nervous—

The Chair (Mr. Garfield Dunlop): You've got 30 seconds left.

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Ms. Carine Nind: All right, I hear you.

The Chair (Mr. Garfield Dunlop): It's just so you know that I'm going to cut you off again.

Ms. Carine Nind: All right.

A lot of people were nervous about using this equipment. In this building, building 241, there are 48 households. Nikola was there, and there were at least 30 of the members from that building, and he knew every one of them by first name. He patted them on the head and he did his actions that he always does, but he totally felt loved and a part of that community. That, you don't get that all the time. You really don't. I can't talk stronger.

The Chair (Mr. Garfield Dunlop): Okay. We'll now go to the Liberal caucus, okay?

Ms. Carine Nind: Okay.

Mr. Bill Mauro: Ms. Nind, do you want me to ask you a question or do you just want to keep talking?

Laughter.

Mr. Bill Mauro: That's a serious question. We caucused on this. If you want to just keep going, you can keep going. I do have a question for you but if you want to just go—

Ms. Carine Nind: Please ask me. I'd really like you to ask questions because I have been around the block a lot, you know, so do.

Mr. Bill Mauro: Stop there. All right, I will ask you one question and then you'll have plenty of time left still. I think, when you first started your presentation—and congratulations. You did a great job, especially following on the presentation from Nicole. Those were not easy shoes to fill and to follow, but congratulations, you did a good job. But when you first started you did say that when you first met with your member, John Milloy, you were opposed to the legislation?

Ms. Carine Nind: Yes.

Mr. Bill Mauro: And I'm listening and assuming you're no longer opposed.

Ms. Carine Nind: No.

Mr. Bill Mauro: So, can you tell me what your first impressions of it were and what it is that has brought you to—

Ms. Carine Nind: What, succinctly, brought me to that? Okay. I'm a long-time believer in the democratic process; in one member, one vote; in the ability to appeal; in the ability that, with enough information, members can make decisions. So when I thought of it being taken from that process—because seldom do co-ops that are running well and having good activity end up in the court system, but we had faced the court system. I then, after that, was on the COCHF board of directors and chairing difficult meetings, meetings where members were really, really up in arms with each other because they hadn't gotten enough supports in ways of learning how to deal with things in a democratic way. I recognized that it's not for the co-op that I work with; it's for the co-ops—it costs far too much, far too much.

I'm not worried about the paperwork. The fact that you have a clear process either way, where the individual has their rights heard—the other thing is it'll save them money. Most of these people would not be able to defend themselves in a payment way if they're going to the court system. It will be very easy for them to have that support if they're going to the tribunal. So I think it's more fair that way. If there are co-ops that aren't making sure they do due diligence, then that will come out.

Quite often, if it's with a lawyer, lawyers will advise the community, "You haven't done your paperwork. You should stop now rather than costing more." At least, with the tribunal, there would be a real recognition of what the error was and how to correct it and how to get the bylaws

in place or remind themselves of the bylaws—those types of things.

I hope that answered it.

The Chair (Mr. Garfield Dunlop): That covers your time. You just did a perfect job on that. Thank you.

Ms. Carine Nind: Thank you.

The Chair (Mr. Garfield Dunlop): I apologize; I do have to get five more deputants in before 3 o'clock because we can't go past 3.

Ms. Lisa MacLeod: Speaker, can I just say a point of order?

The Chair (Mr. Garfield Dunlop): Yes.

Ms. Lisa MacLeod: I came here late—this really isn't a point of order—but these are the best delegates we've ever had in committee, ever.

GOLDEN HORSESHOE CO-OPERATIVE HOUSING FEDERATION

The Chair (Mr. Garfield Dunlop): We'll now go to the Golden Horseshoe Co-operative Housing Federation, and that's Tracy Geddes. Tracy, you've got five minutes.

Ms. Tracy Geddes: Do I get to sit down first? You're not going to start right away?

The Chair (Mr. Garfield Dunlop): Oh, yes, you can sit down—

Ms. Tracy Geddes: Excellent. Good afternoon. Hi.

Mr. Steve Clark: Hi. How are you?

Ms. Tracy Geddes: I'm good. How are you? I haven't seen you in a while.

My name is Tracy Geddes and I am the manager currently at Applegrove Co-operative Homes in Hamilton. I've actually also been a member of Halam Park co-op since 1998, and I sit on the board of directors for the Golden Horseshoe Co-operative Housing Federation. So I'm going to speak to you in my capacity as Golden Horseshoe executive board member.

The Golden Horseshoe serves and represents 51 housing co-ops from Dundas to Fort Erie. We provide education for co-op members, facilitation of difficult meetings, a group buying program and many other services.

One of the services that is called upon frequently is our chairing of difficult meetings and, in this case, member appeals of eviction notices to the general membership. GHCHF, sadly, services eight to 12 eviction appeals annually, and that's in a slow year.

When a co-op member is delinquent and falls into arrears, the progression of events sees staff deal with the member to try to reach an agreement as to when and how the member will pay back arrears. We call that a repayment agreement. If this is unsuccessful, the member is then called to the board, and the board will also try to accommodate the member and work out a repayment schedule. If this is still unsuccessful, the board has little recourse but to give a notice of eviction.

Under present legislation—the Co-operative Corporations Act—the member being evicted has the right to appeal the board's decision to the general membership.

When this happens, the member's file is now open to the entire membership for scrutiny. A lot of times, these are your friends and your neighbours, so it's a bit uncomfortable. At the requested meeting, the board will state its case for eviction and the member will state their case to be allowed to stay. Questions can then be asked from the general membership. Putting one's entire file—and, a lot of the time, your life and your spending habits and whatnot—on display, and the appeal meeting itself, tends to be incredibly emotional and stressful for the member, the board, staff and the membership.

At a recent appeal meeting, chaired by the Golden Horseshoe, the member admitted to never being current with their housing charges in the entire nine years they had lived there. They had been brought through the repayment agreement process several times and were now appealing to the membership for the second time. The total amount in arrears in this second was more than \$3,400. There was an emotional presentation where the member broke into tears and could not finish her statement. Members were sympathetic to this very popular member and overturned the board's decision to evict if the member would sign another repayment agreement.

The date of that meeting was August 28 of this year. To date, the board has been unable to meet with the member to sign the repayment agreement she agreed to at the meeting. The member will not return or acknowledge calls or invitations to meet with staff or the board. Now the nine-year recurring cycle will begin again.

This is representative of many eviction scenarios that are played out in our co-op sector. Members seldom uphold an eviction order because they can sympathize and perhaps see themselves in a similar position, right? "That could be me up there." Sometimes they just like the member. Occasionally they may have issues with the board of directors themselves. Whatever the case, the co-op suffers. They are owed money that they cannot collect. They have bills to pay, units to maintain and members to satisfy.

If the membership had upheld the eviction on August 28, the co-op would now be faced with going to court to obtain an eviction order and a writ of possession to take back the unit. Fees involved in that can top over \$3,000. That's actually a conservative estimate; that's if you can get a lawyer who will do it for a flat rate and there are no additional court dates. Meanwhile, the member who is evicted will often withhold current charges and fall further into arrears, stating they need the money for their new last month's rent elsewhere.

Collection agencies cost money. The court system costs money. Potential repairs and marketing of a unit costs money. Our facilitators who chair the meetings cost money.

As a federation, we are often called upon by our member co-ops to guide them through the process, a process which could take months and end up back at the beginning to do it all over again.

Presently, the ideal scenario for a co-op is for the member being evicted to leave. We call that a midnight

move, and actually I like midnight moves in those cases. Often, this happens with no notice and over a weekend when staff is not on site. We get the phone call: "Unit 9 is leaving." When this happens, the board and staff will give a sigh of relief, knowing they will not have to go through the agonizing and costly process that we now have in place. The only worry we have is now in collecting monies owed. In my experience, midnight move units require the most work because they're leaving quickly.

The Chair (Mr. Garfield Dunlop): You've got 30 seconds. Thanks.

Ms. Tracy Geddes: Okay. Passage of Bill 14 will mean that the co-op sector can now join other forms of rental housing in having access to a system wherein housing co-ops can pursue cases of chronic late payments, arrears, RGI abuse, illegal acts and others within a shorter, less expensive time frame. It will give both parties an unbiased, fair result based on the facts and not emotion or friendship.

I thank the committee for the opportunity of presenting here today and look forward to the passage of this much-needed legislation.

The Chair (Mr. Garfield Dunlop): Thank you very much, Tracy.

Ms. Tracy Geddes: You're welcome.

The Chair (Mr. Garfield Dunlop): We'll now go to the NDP caucus for questions for three minutes.

Ms. Cindy Forster: Thanks, Tracy, for being here and talking about this long-awaited bill. Can you tell me a little bit about how many evictions there have actually been in the co-op that you sit as a board member on?

Ms. Tracy Geddes: Actually, I don't sit on the board of a co-op; I sit on the board of the federation. But I manage a co-op, and I live at one.

I've been a manager for over a decade, and the one I'm at now, I've been there for three and a half years. In those three and a half years, I have had three eviction appeals; two of them were overturned. In both cases, the arrears were in excess of \$4,000. Actually, it was the same unit, so I'm thinking I just want to fill that unit with cement and move on, but in both cases, the unit, after they did eventually leave, past the eviction date, needed extensive repair.

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Ms. Cindy Forster: And the one that you live at?

Ms. Tracy Geddes: The one that I live at? Well, I've lived there since 1998. That's at Halam Park, and you'll be hearing my colleague Kathy speaking next. At least six or seven, maybe even eight—and one of them was the same member three times. But she'll tell you more about that; I don't want to jump all over her speech.

Ms. Cindy Forster: In your presentation, you did speak a bit about beefs with boards, which has been the topic of discussion by a number of presenters here today. What is your advice on how to address some of the issues that were raised earlier today?

Ms. Tracy Geddes: With regard to the personal feelings between boards and members being evicted?

Ms. Cindy Forster: Yes.

Ms. Tracy Geddes: You know, it is really difficult. If I'm sitting on a board of directors and my best friend or neighbour, whom I've been sitting on the front step having coffee with for the last six years, isn't paying their bills, and then I have to decide whether or not to evict them—if I know their personal story, I might want to vote with my heart, not my head. People forget that co-ops are a business, and our business is to provide affordable housing and maintain the units to a very livable state. We can't do that if people aren't paying, and sometimes it's hard.

Personally, I don't think that the members should have that right to vote on whether or not that person stays, especially if you're not even sitting on the board, so you don't know how many times they've come to the meetings, how many stories they've told you or how many promises they've made and broken.

Ms. Cindy Forster: Thanks. Mike?

Mr. Michael Mantha: I'm okay.

Ms. Cindy Forster: Thank you.

The Chair (Mr. Garfield Dunlop): Okay. Thank you so much. We'll now go to the Liberal caucus. Mr. Mauro?

Mr. Bill Mauro: Thank you, Mr. Chair. Ms. Geddes, thank you for your presentation. You bring at least as much, and perhaps the most, experience and perspective of most of our presenters so far, because as I—

Ms. Tracy Geddes: I'm a big co-op cheerleader.

Mr. Bill Mauro: Well, you're on the executive of the Golden Horseshoe co-op. You're in a management position as well. You also have lived in a co-op—still do live in a co-op.

Ms. Tracy Geddes: Yes.

Mr. Bill Mauro: How many years did you live as a co-op member before you were the manager, or did they happen at the same time?

Ms. Tracy Geddes: No, not at the same time, actually. I was a member of my co-op for—well, let's see. I moved in in 1998, and I've been a co-op member since 2002, so 11 years.

Mr. Bill Mauro: Yes. So you lived just as a co-op member, then you've been in management, and now you're on this executive of a broader umbrella group.

Ms. Tracy Geddes: Yes.

Mr. Bill Mauro: So I'm interested very much in your perspective. You've seen it, I would say, from just about every angle there is to see it from, so I think that gives some weight and value—everyone's opinions, obviously, have value, but you're bringing almost a three-perspective approach to this.

Ms. Tracy Geddes: Absolutely. When I first moved into my co-op, I was a single mother with two children. I was going to school, and then I was done school and couldn't find a job. The manager at the time, Kathy Dimassi, approached me and said, "You know, we can give you a subsidy to help you out."

The co-op was really there for me at that point, but for the first year that I lived in my co-op, I did absolutely

nothing. I didn't participate, I didn't go to meetings, and I didn't do anything. Actually, Kathy came to my door, knocked on the door and said, "Get your butt to the meeting," and the rest is history. I went to that first general members' meeting and absolutely fell in love with the process, with the democratic control that I had. I loved the structure, and I loved the set-up, because I had virtually no power or control anywhere else in my life, and the co-op gave that to me.

Mr. Bill Mauro: You made a comment—it was a very interesting comment—about people dealing with issues with their hearts rather than their heads, and it's understandable. I think all of us around the table here can grasp the challenge that individual members will find themselves in when they have to make a decision on someone who can be a friend—not just a member, but it could be a friend or maybe even a relative. Maybe if you could just expand on that a little bit for us?

Ms. Tracy Geddes: Certainly. I think that being able to go to the Landlord and Tenant Board makes it easier all around for the co-op sector. It makes it easier for the members, because the members really don't want to have to sit in that meeting and make that decision.

Mr. Bill Mauro: I'm running out of time, and I apologize for interrupting you, but do you think that that would be reflective—would there be broader support for that position, which is a bit severe, perhaps, in some minds?

Ms. Tracy Geddes: Sorry?

Mr. Bill Mauro: Do you think that there would be broader support among co-op members for your position about them not having any ability to make that ruling?

Ms. Tracy Geddes: Absolutely. Many times I hear, "I don't want to go to that meeting, because I don't want to know that stuff." Of course there are people who do want to know that stuff, but those are the nosy people. But by and large—

The Chair (Mr. Garfield Dunlop): We'll now go to the Conservative caucus. Mr. Clark.

Mr. Steve Clark: I just listened to her last comment and it reminded me of some of the things we do between the three parties.

Ms. Tracy Geddes: I would like to eavesdrop on that.

Mr. Steve Clark: Yes, I'm sure you would. So would a lot of people.

Ms. Lisa MacLeod: Trust me, you wouldn't.

Mr. Steve Clark: There's a long list.

Although it doesn't have anything in relation to Bill 14, it was part of your presentation and it does speak to the flavour of your co-ops, since you've got 51 units, and that's something that I hadn't heard of it was a group buying program. I'd just be interested in a little information on just what you provide to your members.

Ms. Tracy Geddes: Super quick, it's called the Cost Cutters program and it allows co-ops in the Golden Horseshoe area and actually in Toronto, CHFT, to participate in a bulk purchase. So we can make a deal with Appliance Canada and say that if all of us co-ops are going to buy from you, give us a reduced rate.

It's just another benefit of living in a co-op. You know, we get stuff like—Home Depot supplies paint—sorry, a little pressure, everything else escapes me, but I'm sure somebody else will tell you, or they'll tell me in the hall, "You forgot this and this and this."

Mr. Steve Clark: Well, you can tell us on October 1, then.

Ms. Tracy Geddes: Excellent. Yes, I'll be here October 1.

I mean, that's housing charge day, could you not have picked a better day? I have to collect my rent.

Mr. Steve Clark: Talk to Harvey and Dale. Anyways, thanks, Mr. Chair. Thank you very much.

Ms. Tracy Geddes: Thank you very much.

The Chair (Mr. Garfield Dunlop): Thank you very much, Tracy.

HALAM PARK HOUSING CO-OPERATIVE

The Chair (Mr. Garfield Dunlop): We'll now go to the Halam Park Housing Co-operative. Kathy is coming. Kathy, welcome. You have five minutes for your presentation.

Ms. Kathy Dimassi: My name is Kathy Dimassi. I am the housing administrator for Halam Park Housing Co-op. We're a 94-unit townhouse complex located on the central mountain in Hamilton. The units were built in 1955 to house Mount Hope air force base families. The co-operative was not incorporated until 1992, at which time the residents spearheaded negotiations to become a self-governing democratic body. It was one of the last rehab co-ops developed.

I have been managing the day-to-day business of the co-op for 15 years. Our co-operative is currently in the final stages of an infill expansion project, building an additional eight one-bedroom semi units to accommodate our aging-in-place members. We have a 50% split of market and rent-geared-to-income members.

Thank you for this opportunity to make a deputation on Bill 14. I am here today speaking on behalf of the 152 members of our co-operative.

In June 2004, a member of our co-operative attended the CHF annual AGM and voted in support to begin negotiations with the Ontario government to change the eviction process. This process would better protect members' rights, help co-ops enforce bylaws their members put in place and reduce the cost of eviction for co-ops and streamline the process. We have been in support of these efforts.

An eviction is one of the most difficult and stressful moments in co-op life. They affect the entire community. We understand that not all evictions will be handled through the LTB; however, the ones that are most frequently affecting co-ops, including arrears, persistent late payments, illegal acts, wilful damage and interference with reasonable enjoyment of members will be heard. Possession of abandoned units has also been a concern at Halam Park, with members owing arrears and moving out without notice. The co-op does not have the

right to change locks and take possession without the costly expense of going through the courts to obtain a writ of possession. The LTB can reduce the time to gain possession and turn over the unit with minimal housing charge losses.

Alternatives to eviction are always discussed and include: performance agreements, reprimands, or involving mediation or involving outside organizations such as the police, mental health and social services.

Our co-operative has a strong relationship with our service manager and housing officer and, if necessary, we'll deal directly with members if concerns are raised and they feel they may not be addressed through the co-operative. We also meet frequently and have had our local MPP, Monique Taylor, attend our co-operative for social events.

Best practices in financial management are always the intent of co-operative housing providers, and many include this as part of their mission statements, as we have. However, with continual cases of evictions and the costs associated with them, it places a co-operative at risk both financially and with its service manager. With the current process, one or even two evictions per year could create deficits for the co-operative and could trigger additional reviews on their operations by service managers.

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During our last eviction in 2011, it took five months to obtain a writ of possession and have the member removed from the unit from the time the general members upheld the board decision. The total cost was \$8,600: \$5,206 were arrears and \$3,353 were legal and filing costs. During the eight years that the member lived in the co-operative, they were served notices to appear before the board 13 times for non-payment, breached seven performance agreements with the board of directors, appeared before the membership three times, and breached two performance agreements with the membership. The member was self-employed and receiving a rent-geared-to-income subsidy. During the years of mediating payments with the member, the board and staff assisted the household in obtaining financial counselling, career and employment counselling and other financial options. The co-op has not yet recovered any costs of this eviction, and it was written off as a bad debt. The co-operative had to delay much-needed upgrades to several units during the remainder of 2012 due to the loss of this operating income.

The negative impact of even the very few evictions that have been done in our community has created a culture of non-payment or late payment of housing charges since members understand it is so costly to the co-op to evict.

The LTB process will be fairer for the co-operative by providing quicker hearings on cases and a decrease in legal fees and the loss of housing charges not paid while they are being heard.

We believe the process will not only be fairer and simpler for the co-operative but for members as well. Most members are unable to retain counsel to attend

court and have to represent themselves, but with this system they will be able to get legal aid or other representation. The courts, in many cases, defer the decision to the board, and the case is decided on procedural correctness.

The Chair (Mr. Garfield Dunlop): You have about 30 seconds.

Ms. Kathy Dimassi: With an LTB adjudicator, the cases will be decided on their merit.

I understand that Bill 14 has support from all parties; therefore, it is a priority for our co-operative that this bill be passed quickly. Continued delays would cost both our co-op and many others money that we cannot afford.

In closing, I want to thank the members of the committee for giving me the opportunity to express my views today. I would be pleased to answer any questions.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the Liberal caucus for three minutes of questioning. Mr. Mauro?

Mr. Bill Mauro: Thank you, Mr. Chair. Ms. Dimassi, thank you for your presentation and your comments today. I appreciate you being here.

Your co-op—did you say it was originally built in 1955?

Ms. Kathy Dimassi: The actual buildings were built in 1955, but it did not become a co-operative until we incorporated in 1992. But we did the renovations in 1996 and 1997. It was owned by the air force base to begin with; then it transferred hands three times to other non-profit organizations before the purchase was done.

Mr. Bill Mauro: What kind of shape was the housing stock in when you received it?

Ms. Kathy Dimassi: Of 94 units, there were only 33 that were inhabitable at the time, so there were only 33 families left. The rest of the buildings had been all boarded up.

Mr. Bill Mauro: So you have put them back into service? You had to retrofit those boarded-up units.

Ms. Kathy Dimassi: Yes, we did.

Mr. Bill Mauro: So you have the original—was it 91?

Ms. Kathy Dimassi: Ninety-four.

Mr. Bill Mauro: Ninety-four units.

Ms. Kathy Dimassi: Actually, we had 95 units, but one of the two-bedroom units we made into our office so that we could be there on-site.

Mr. Bill Mauro: Did I hear you say that you are constructing a new building now for the people who have lived in your co-op and who are now getting older and need some kind of other housing?

Ms. Kathy Dimassi: Yes. What we're doing is we have four areas in our co-operative where we're placing semi units—one-bedroom semi units in four different locations. We have seven and a half acres of land, so we've got those areas designated to put the new units.

Mr. Bill Mauro: So that will be additional accommodation? It's not taking existing co-op units off-line to—

Ms. Kathy Dimassi: No, it's additional housing. We have two-, three- and four-bedrooms. Now we'll have one-bedrooms, so the people who are over-housed—

Mr. Bill Mauro: How many are you building?

Ms. Kathy Dimassi: Pardon?

Mr. Bill Mauro: How many are you building?

Ms. Kathy Dimassi: Eight.

Mr. Bill Mauro: Eight. So the money is coming through—now, what does Hamilton have? Do you have a DSSAB? Do you have a CSM through which your housing money flows?

Ms. Kathy Dimassi: The subsidy comes through the city of Hamilton.

Mr. Bill Mauro: So the city of Hamilton is the consolidated service manager for the social housing portfolio.

Ms. Kathy Dimassi: Yes.

Mr. Bill Mauro: Okay. And they're funding, in its entirety, the cost of your new build?

Ms. Kathy Dimassi: No. They gave us \$500,000 towards it from the programs that they have available.

Mr. Bill Mauro: Right.

Ms. Kathy Dimassi: The rest of the money is being funded through the actual co-op. We're using our surplus to fund part of it, and we're taking out a small unrestricted loan for the remaining amount and paying that back. Because we're unable to sever the land because of ministerial consent, we're unable to build the actual—originally, we wanted to do a 28-unit one-bedroom complex, but we're unable to do that, so we've scaled down the decision. With the support of the city of Hamilton, we've been able to do the eight-unit infill.

Mr. Bill Mauro: So you've—

The Chair (Mr. Garfield Dunlop): Okay, that's your time.

We're now going to the Progressive Conservative caucus.

Mr. Steve Clark: I may just continue that. What was the final cost of the eight-unit expansion?

Ms. Kathy Dimassi: It was just over \$1 million.

Mr. Steve Clark: Just over \$1 million. You said 28 was your actual request?

Ms. Kathy Dimassi: Our original request—we wanted to build a three- to four-storey complex, which would have displaced a couple of units. We would have had to remove four of the townhouses that we have right now. Unfortunately, we couldn't do that project, so we reduced the project down to eight semis because we could do it within our own property and we wouldn't have to do the ministerial consent process.

Mr. Steve Clark: How much vacant land do you have left on the site after the expansion?

Ms. Kathy Dimassi: We still have seven and a half acres. The actual areas of the land that we are putting the buildings on are unused areas that we have seating and bushes on right now. So we're moving the seating and bush area and putting the buildings there. It's not affecting any of the common areas that we already currently have.

Mr. Steve Clark: Okay. You mentioned possession of abandoned units as being a concern of your co-op, with members owing arrears and moving out without notice.

Any total cost in the last 10 years that that's cost the co-op?

Ms. Kathy Dimassi: We just recently had two over the summertime, where the people just abandoned the units and left. I'm tallying up the total for the one particular unit to be able to go to court with it. Right now, it's about \$12,000 for one unit, to go in, to remove all the possessions that were left, to clean it, to do all the repairs.

Mr. Steve Clark: Thanks very much for your presentation.

Ms. Kathy Dimassi: You're welcome.

The Chair (Mr. Garfield Dunlop): Okay. Thanks. Is that it, Steve?

Mr. Steve Clark: Yes, that's it for me.

The Chair (Mr. Garfield Dunlop): Now we'll go to the NDP caucus.

Mr. Michael Mantha: You mentioned quite a few times in your presentation the relationship that you have with the service manager in the area. Could you elaborate? I want to relate that to the earlier comments and the concerns that the earlier presenters had made. I just want to get a little bit more of a relationship role that the board has or even the members have with that area manager.

Ms. Kathy Dimassi: I know that different municipalities have different relationships. Hamilton has been extremely lucky for our housing co-ops to have a very good, strong relationship with the city of Hamilton housing department. They have always been there to consult with co-ops as well as non-profits. During any process that's done in the city of Hamilton, we're asked individually to sit on teams to discuss problems that are within our area. We have, currently, five different working teams right now; one of them is evictions, which I sit on, as well as over-housed issues and aging-in-place issues. The city has a very strong support of their housing providers, wanting to make sure that their voice is heard and to take those comments and the information—because we're the ones who are working day to day with the situation—to see what kind of recommendations we can help with to provide the solutions to problems that are arising in our community.

We work very closely with the city of Hamilton. The members do have the actual telephone numbers of our housing officers, so if they have a question, they can contact the housing officer and they can actually go down and meet with them and show them information, ask questions and see if we're doing things procedurally, following our bylaws and things like that.

Mr. Michael Mantha: Thank you.

Ms. Kathy Dimassi: You're welcome.

The Chair (Mr. Garfield Dunlop): Thank you very much, Kathy, for your presentation today.

ADVOCACY CENTRE FOR TENANTS ONTARIO

The Chair (Mr. Garfield Dunlop): We'll now move on to the Advocacy Centre for Tenants Ontario: Mr. Kenn Hale. Mr. Hale, you have five minutes, please.

Mr. Kenn Hale: Good afternoon, Mr. Chair and members of the committee. Thanks for giving us the chance to speak.

I'm appearing on behalf of the Advocacy Centre for Tenants Ontario, a community legal clinic with the mandate to advocate for justice in housing. Part of that mandate is to ensure that the Landlord and Tenant Board operates in a way that promotes fairness and accessibility to justice. We believe that Bill 14 actually accomplishes that at the board, and we urge the members of this committee to recommend that it be supported by all the members of the Legislature and that it be enacted without further delay. But we will be living with this law for a long time, and it needs to be changed in a few places to accomplish its purpose.

First, I'd like to focus on the good parts. We're particularly pleased that the bill includes clear authority for the Landlord and Tenant Board to waive fees for low-income people. This is a power that the courts have had since 2005 and is long overdue at the board. These filing fees can create a barrier to justice for low-income people, and when the issue involves losing your home or ensuring that your home is fit to live in, we can't shut out people just because they can't afford \$45 or \$50. We'd like to thank Attorney General John Gerretsen for fulfilling his promise to address this concern.

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Most of the bill is about non-profit co-operative housing. This is a form of housing that has proven its worth in meeting the needs of low- and moderate-income people, decade after decade. It has promoted the building of healthy, mixed-income communities that support inclusive and democratic decision-making. The retreat of governments from funding housing co-ops and the ongoing threats to their future viability demonstrate a major failure of public policy, in our opinion.

But as we all realize sooner or later, democratic decision-making is not perfect. We have to build institutions that constrain the ability of majorities to crush minority rights, and we have to limit the ability of individuals to put those collective rights in peril. The courts play that role in many areas of life. The Landlord and Tenant Board is another one of those institutions.

We have come to agree that the board can better play this role for co-op housing disputes. But for some reason, the government's bill proposes that we hold on to some of those dysfunctional court roles. We urge the committee to recommend that co-op housing go all the way with the Landlord and Tenant Board. It's time to move away from court applications and leave the courts to carry out only their supervisory role of hearing appeals from the Landlord and Tenant Board orders. This would require three sets of changes, all of which can be easily accomplished within the framework of the bill as drafted.

First, all applications for evictions from co-ops should be dealt with by the Landlord and Tenant Board. There's no need to retain the co-ops' ability to seek eviction from a superior court as provided for in section 9. The grounds for eviction provided for in section 31 cover any conceiv-

able reason why someone should be ordered to leave their home and their community.

Secondly, co-op members suffer from disrepair, harassment and interference with the enjoyment of their premises in the same way that tenants do and must be allowed to seek remedies at the board. We know that these problems are much less prevalent in co-ops than in comparable rental buildings. But the problems are still there, and the only remedies available to co-op members for these matters are through the courts. Tenant applications form a small but important part of the workload of the Landlord and Tenant Board. Why should co-op members be prohibited from addressing those problems at the board?

Finally, the Legislature made a mistake when they enacted the Residential Tenancies Act when they prevented the board from correcting mistakes that non-profit housing providers make about tenants' rents. This leaves the ultimate rent determination decision in the hands of the courts, by way of judicial review of housing providers' decisions. Bill 14 proposes to compound that mistake by extending it to non-profit co-ops. Co-ops deserve to be treated the same way as other non-profit housing providers at the board, but tenants and co-op members facing eviction for non-payment should have the opportunity to demonstrate to the board that the amount of money claimed to support the eviction was not calculated correctly. A new section 203, as proposed in our written brief, would accomplish that.

This change should be adopted to honour the memory of Al Gosling. He died as the result of an unfair eviction granted by the Landlord and Tenant Board that could not look behind the improperly calculated rent that was far beyond his means to pay. The city of Toronto's recent Ombudsman report on the eviction of seniors by Toronto Community Housing shows that this problem continues. This is your opportunity to prevent those evictions.

The Chair (Mr. Garfield Dunlop): You have 30 seconds, sir.

Mr. Kenn Hale: With these changes, we believe the bill will strengthen co-op communities and protect the vulnerable people who are among their members. I understand that a number of these concerns were raised by previous deputants and that there are letters from community organizations and legal clinics that support the changes we're asking for. We ask that they be given serious consideration.

Thank you very much.

The Chair (Mr. Garfield Dunlop): Thank you so much. We'll now go to the PC caucus for their comments or questions. Three minutes.

Mr. Steve Clark: Thanks, Kenn, for your presentation. We've met on your changes briefly. I guess one of the things that I'm having trouble with, and I mentioned it earlier, I think before you were here, is that we've had this co-op bill before the Legislature—this is the third time now over a number of years. There are issues with the Landlord and Tenant Board. You have issues that you've come and spoken to all three parties about when it

comes to the Landlord and Tenant Board. Other groups that represent the other side, landlords, have come and indicated there are issues with the Landlord and Tenant Board. I don't know why, in a minority Parliament, we can't separate those from these disputes of tenure and have that type of discussion. I know perhaps the government, and the Ministry of Municipal Affairs specifically, may not want to do that, but I think there are a lot of issues and we can't put our heads in the sand and not want to talk about them.

I did say in the House, when this bill was first introduced, that maybe we should have hearings—not just one day like we're having here today, but multiple days—if we're going to get into the issues with the Landlord and Tenant Board. With all due respect, I know that the majority of deputants are only talking about Bill 14 and the issues within the co-ops, and some of your amendments and some of your ideas that you've talked about are specifically on the board. I just think it's time for us to move forward with this bill and to have that discussion with co-ops and with landlords and tenants across the province. Personally, I think they're two separate things, but that's just my comment, Mr. Chair.

The Chair (Mr. Garfield Dunlop): Did you want to respond to that?

Mr. Kenn Hale: Is it a problem with the legislation or—I'm not sure the problems are all with the legislation. We have been working hard over the years to try to make sure that training at the Landlord and Tenant Board is as good as it can be, that the government has an accountable and high-quality appointment process to make sure the right people get on the Landlord and Tenant Board. Those are the areas where I believe it's important for co-ops and for tenants that we do some work on the Landlord and Tenant Board. Having a wholesale reopening of it—I'm not sure we need that at this point. But if there is, we will be there, I can assure you.

The Chair (Mr. Garfield Dunlop): We'll go to the NDP caucus. Cindy?

Ms. Cindy Forster: Thanks, Kenn, for being here today and talking about this particular bill. But I'd like you to actually spend my three minutes or my colleague's three minutes taking us through the issue of the Justice LeSage decision relating to Mr. Gosling's eviction so that we're all clear about what you're trying to achieve by proposing an amendment.

Mr. Kenn Hale: All right. Al Gosling was an older gentleman. He'd been long retired. He was receiving a fixed income that had not changed significantly year after year. He was required by the rules of the Toronto Community Housing Corp. to report his income annually so that they could ensure that he continued to be eligible for a subsidy. He failed to do that and he didn't send his forms in. It appears that the efforts that Toronto Community Housing made to contact him weren't really sufficient to get in touch with him and to find out what everybody probably knew: that his income was the same.

Because they didn't get those papers and because he didn't respond in the way they wanted him to, they

decided to raise his rent to the market rent. So he went from a couple of hundred dollars to—I don't know. His rent went probably beyond what his total income was. When he was unable to pay that or didn't pay that, Toronto Community Housing went to the Landlord and Tenant Board and sought an eviction based on that high market rent.

He came to the Landlord and Tenant Board and tried to sort things out with them, but ultimately they said, "We can't do anything about this rent amount. Section 203 of the act says we can't review decisions about subsidies. So if TCHC says your rent is \$900, it's \$900. I don't care if you've been paying \$300 for the previous 10 years; it's \$900 now. Go back to them and try to sort it out."

He presumably went back to them to try to sort it out but it didn't work. The board had granted the eviction order at that time and told him that he could come back and review it if he wanted, but by that point he was deep down the rabbit hole. Eventually, he was evicted, and as a result died in hospital from living under the stairwell for a couple of months.

If the board had been able at his hearing to look at, "Well, he shouldn't be paying \$900. We can hear his evidence and determine that, really, he should only be paying \$300," then they may have been able to save his tenancy and consequently save his life. That's the kind of change that we're asking.

I really, still, after all these years, cannot understand why the Legislature decided that the Landlord and Tenant Board couldn't make those rent decisions. They're not setting the rents; they're just making sure that the rules that are in place are followed, whether by the co-op or by TCHC or whoever gives out the subsidies.

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Ms. Cindy Forster: So the actual—

The Chair (Mr. Garfield Dunlop): Thank you. The time's up on that one.

Ms. Cindy Forster: Okay.

The Chair (Mr. Garfield Dunlop): Thanks so much. Now we'll go to the Liberal caucus. Mr. Mauro?

Mr. Bill Mauro: Thank you, Mr. Chair. Mr. Hale, thank you for your comments. My question was going to be exactly the same as Ms. Forster's. I think your answer has helped me to understand a little bit what happened in the case of Mr. Gosling. Now, he was in Toronto Community Housing, but not in a co-op.

Mr. Kenn Hale: No.

Mr. Bill Mauro: He was in a tenancy arrangement—

Mr. Kenn Hale: This bill is proposing that that prohibition be extended to co-ops, the prohibition of the board looking at the subsidy calculation, and that's to keep—

Mr. Bill Mauro: So give me a bit more detail, then, on what that prohibition is. I think I heard you say the amount of money that is deemed to be the issue is somehow not allowed to be reviewed by the Landlord and Tenant Board. They don't deal with the subsidy piece or

the—the money comes; that's it. They don't do any review about the accuracy of the amount.

Mr. Kenn Hale: They can't determine whether the amount of subsidy that he's getting is correct or the amount of rent-geared-to-income is correct.

Mr. Bill Mauro: Well, they could determine it, but you're saying they don't have the purview or the authority—

Mr. Kenn Hale: They're explicitly prohibited by section 203 of the Residential Tenancies Act, and Bill 14 proposes that co-ops be treated the same as other non-profit housing providers and proposes to extend that prohibition to co-ops as well.

Mr. Bill Mauro: Which section of Bill 14 deals with that?

Interjection: It's right here: section 46.

Mr. Kenn Hale: Section 46.

Mr. Bill Mauro: Okay. That's wonderful. Thank you very much for that.

Mr. Kenn Hale: But I would just say that we're worried about—we don't think that just removing the section is going to work. Section 203 was put in when we changed from the Tenant Protection Act to the Residential Tenancies Act. There was the Conservatives' law, and then the Liberals brought in the tenant protection act, brought in this new section. Under the Conservatives' law, half the members of the rental housing tribunal said they had authority to deal with this; the other half said they didn't. So it was ambiguous. The government came down on one side. We think they came down on the wrong side. We'd like to make it clear that they have that power, because it's so related to all the other powers that they're exercising.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much, Mr. Hale, for your time this afternoon.

Mr. Kenn Hale: Thank you.

PHOENIX HOUSING CO-OPERATIVE INC.

The Chair (Mr. Garfield Dunlop): We'll now go to the Phoenix Housing Co-operative: Tanya Taylor-Caron. You have five minutes, Tanya. Welcome.

Ms. Tanya Taylor-Caron: I'll be short.

My name's Tanya. I'm with Phoenix Housing Co-operative in London. Our co-op consists of 60 units. They're all family co-ops, townhomes; 10 are subsidized.

Recently, Phoenix went through an eviction process that took over a year and a half and cost Phoenix, just this one eviction, \$18,000 in legal fees. In the past three years, the co-op has spent over \$37,000 in legal fees to evict three members.

That money, we think, could be spent elsewhere in capital reserve projects. We needed a new roof, and instead of putting the money into that, we had to get a loan to get the new roof.

These evictions should have been fairly easy, I would think. I'm hoping that, with the passing of Bill 14, the process will be easier for us and for the members involved.

That's it. That's all I had to say.

The Chair (Mr. Garfield Dunlop): Oh, okay. Thanks, Tanya.

We'll now go to the NDP caucus for comments and questions. You have three minutes.

Ms. Cindy Forster: Hi, there. Thanks for being here today. How long have you been actually kind of involved with your co-op?

Ms. Tanya Taylor-Caron: Three years.

Ms. Cindy Forster: Three years. And your position is—

Ms. Tanya Taylor-Caron: I am the office coordinator/manager.

Ms. Cindy Forster: And how many evictions have there been in this—

Ms. Tanya Taylor-Caron: Five evictions in three years.

Ms. Cindy Forster: Five evictions in three years, at a cost of—

Ms. Tanya Taylor-Caron: Well, there are three that went to court: \$37,000.

Ms. Cindy Forster: Yes, \$37,000. So you're fully in support of making this amendment to move from the court system to the landlord tribunal system.

Ms. Tanya Taylor-Caron: I think a mediation of any kind is good. I noticed even when I went through the eviction the last time, with the member who went, she had no one helping her. I actually felt bad just because—I mean, we were on the other side, but we had two lawyers and myself, and she had no one. She didn't understand what the judge was telling her. I mean, we had a right to do what we were doing, but it would have been nicer if she had more guidance, and I think this bill would help that.

Ms. Cindy Forster: And she wasn't able to obtain any representation through community legal aid?

Ms. Tanya Taylor-Caron: No. I don't know why.

Ms. Cindy Forster: Because those budgets have been cut, perhaps?

Ms. Tanya Taylor-Caron: Yes, maybe. She was on her own.

Ms. Cindy Forster: Okay, thank you very much.

The Chair (Mr. Garfield Dunlop): Okay, we'll go to the Liberal caucus. Mr. Mauro.

Mr. Bill Mauro: Thank you for your presentation. How many units are in your—

Ms. Tanya Taylor-Caron: Sixty units.

Mr. Bill Mauro: Sixty units. What did you say your arrears costs were?

Ms. Tanya Taylor-Caron: Sorry?

Mr. Bill Mauro: Your eviction costs; I'm sorry.

Ms. Tanya Taylor-Caron: Oh, legal fees were \$37,000.

Mr. Bill Mauro: And that was three years, three evictions, one year?

Ms. Tanya Taylor-Caron: Three years, three evictions that went to court.

Mr. Bill Mauro: Okay, so we say \$12,000 a year. What's your total budget?

Ms. Tanya Taylor-Caron: We have \$20,000 in our budget right now for professional legal fees.

Mr. Bill Mauro: No, your annual budget to run the co-op.

Ms. Tanya Taylor-Caron: For operating or for—

Mr. Bill Mauro: Not capital, operating.

Ms. Tanya Taylor-Caron: I don't even know, to be honest with you—not off the top of my head.

Mr. Bill Mauro: Okay, but would it be fair to say that \$12,000 is a significant amount of money to you?

Ms. Tanya Taylor-Caron: It's a big amount for us, for sure.

Mr. Bill Mauro: Are there other costs related to issues with tenancy that are not contained in that \$12,000 budget—or loss of \$37,000?

Ms. Tanya Taylor-Caron: Is there other—sorry?

Mr. Bill Mauro: For example, you're giving us costs associated with evictions—

Ms. Tanya Taylor-Caron: Oh, yes.

Mr. Bill Mauro: —but I'm asking you about rent that you've just not been able to recoup because the system doesn't allow you to act on it in a quick manner. We're usually just hearing about costs associated with evictions, but I don't think any of the presenters have talked to us about that number. So would you have a guess? It's probably a bit unfair, but is it fair to say there is money that's lost as revenue from people just—

Ms. Tanya Taylor-Caron: Absolutely, because while we're fighting this, they're not paying, so they go into arrears. You can't really get the money back for that. Then they move out; they leave the place. We've had to do major renovations after someone has moved out.

Mr. Bill Mauro: I guess what I'm trying to drill down to is you have other tenants, beyond the ones who you go through the eviction process with currently, who just leave you with arrears, and you don't even have an opportunity to deal with it through the eviction process.

Ms. Tanya Taylor-Caron: Absolutely.

Mr. Bill Mauro: And that amount of money would be—it's hard to say on a year-by-year basis, but we would add that to this \$37,000 over the three years for sure.

So the point I'm trying to get to is, does this new process, as it's contained in Bill 14, allow you an opportunity to address that as well as your eviction costs?

Ms. Tanya Taylor-Caron: I think so. I mean, from what I can tell so far, yes.

Mr. Bill Mauro: Thank you.

Mr. Chair.

The Chair (Mr. Garfield Dunlop): Thank you very much, Bill.

And now to the PC caucus. Mr. Clark.

Mr. Steve Clark: Thanks very much for your presentation. Can you help me out? It just seems to be you're—over the last three years, \$37,000. They've all seemed very lengthy, in terms of your—

Ms. Tanya Taylor-Caron: Yes.

Mr. Steve Clark: We've had some people here this afternoon talk about a three-month process, a four-month

process. Help me out with these three cases in your co-op.

Ms. Tanya Taylor-Caron: I really don't know why they were so lengthy. I mean, the president at the time dealt with it quite closely with the lawyer, and he liked to have meetings and talk about it, but it kept getting remanded.

I don't know why it took so long, especially for the one in particular, because that was a quite costly one. It took over a year and a half. She was in arrears. She was constantly late. There were performance agreements. I'm not actually sure why it has cost so much—

Mr. Steve Clark: Because to me, a 60-unit facility with that type of money on an annual basis, because you've had—the last one was I think you said a year-and-a-half process, \$18,000. That's some significant monies that could have been put back into the co-op for other uses. What have you had to delay because of this cost?

Ms. Tanya Taylor-Caron: The last eviction, they wanted her out. There were two major court dates, and they wanted her to reapply, and then we had to go back again. The one court date—I mean, we had two lawyers for eight hours. We were the last ones heard; it was after lunch, but you had to sit there the whole time. I don't know really what the major costs were other than the president involved liked to go into great detail with the lawyer and make sure that everything was done. We were well prepared, and like I said, I felt almost bad for the lady who was getting evicted, just because we were very well prepared.

Mr. Steve Clark: You said they were all family units, so they're all two-bedroom units?

Ms. Tanya Taylor-Caron: Three-bedroom—all three-bedroom units.

Mr. Steve Clark: All three-bedroom units. Okay. Well, thank you very much for coming and telling your story.

Ms. Tanya Taylor-Caron: Thanks.

Mr. Steve Clark: We really appreciated it.

Ms. Tanya Taylor-Caron: Thanks.

The Chair (Mr. Garfield Dunlop): Thank you very much, Tanya.

Now, to the committee and to the audience: Our next deputant is not here yet, and we have to give her to at least 2:45 before she appears. This clock is a little bit fast—a couple of minutes, according to the House calendar. If Angela Best-Longhurst is not here by 2:45, we will go to the next—

The Clerk of the Committee (Mr. Trevor Day): The Co-operative Housing Federation of Toronto.

The Chair (Mr. Garfield Dunlop): What is it again?

The Clerk of the Committee (Mr. Trevor Day): The Co-operative Housing Federation of Toronto.

1430

The Chair (Mr. Garfield Dunlop): The Co-operative Housing Federation of Toronto was the first on the waiting list, so in the meantime we have about five minutes. Is there any other business the committee would like to bring up at this point?

Mr. Steve Clark: I propose that, because of what happened at the last committee meeting, I would like a motion tabled regarding Bill 70 that's before this committee. I've circulated the motion. I am quite prepared to read it into the record at this time.

The Chair (Mr. Garfield Dunlop): Okay. We'll allow that now. If there is a debate on—

Mr. Steve Clark: I understand that, if the deputant comes, we'll suspend discussion.

The Chair (Mr. Garfield Dunlop): Yes. Okay.

Mr. Steve Clark: I understand that.

The Chair (Mr. Garfield Dunlop): All right. Read your motion.

Mr. Steve Clark: Thank you, Chair. I move that the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 70, the Regulated Health Professions Amendment Act (Spousal Exception), 2013;

(1) One day of public hearings and one day of clause-by-clause consideration when the committee next meets during its regularly scheduled meeting times, upon reference of Bill 14 to the House for third reading;

(2) Advertisement on the Ontario parliamentary channel, the committee's website and the Canada NewsWire;

(3) That witnesses be scheduled on a first-come, first-served basis;

(4) Each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members;

(5) The deadline for written submissions is 3 p.m. on the day of public hearings;

(6) That the research officer provide a summary of the presentations by Monday morning of the following week;

(7) The deadline for filing amendments with the Clerk of the Committee be 12 noon on the day preceding clause-by-clause consideration of the bill.

The Chair (Mr. Garfield Dunlop): We've heard Mr. Clark's motion. We have a—

Interjections.

The Chair (Mr. Garfield Dunlop): Excuse me? Pardon?

Mr. Bas Balkissoon: I have an amendment.

The Chair (Mr. Garfield Dunlop): Okay, we have an amendment to the motion. Mr. Balkissoon?

Mr. Bas Balkissoon: I'll read it. I move that the below wording be added to the end of the motion:

Following completion of the committee's consideration of Bill 70, the Regulated Health Professions Amendment Act (Spousal Exception), 2013, the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 55, Stronger Protection for Ontario Consumers Act, 2013:

(1) Two days of public hearings and two days of clause-by-clause consideration when the committee next meets, during its regularly scheduled meeting times;

(2) Advertisement on the Ontario parliamentary channel, the committee's website and the Canada NewsWire;

(3) That witnesses be scheduled on a first-come, first-served basis;

(4) That each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members;

(5) That the deadline for written submissions is 3 p.m. on the second day of public hearings;

(6) That the research officer provides a summary of the presentations by Monday morning of the week following the second day of public hearings; and

(7) The deadline for filing amendments with the Clerk of the Committee be noon on the day preceding the first day of clause-by-clause consideration of the bill.

The Chair (Mr. Garfield Dunlop): So, debate on this? We are now going to debate the amendment first. Any questions?

Ms. Lisa MacLeod: Yes. I just want some clarification from Mr. Balkissoon. Just to confirm that we would be dealing with Bill 70 first—

Mr. Bas Balkissoon: First.

Ms. Lisa MacLeod: —then Bill 55 after that?

Mr. Bas Balkissoon: Yes.

Ms. Lisa MacLeod: I'm happy to look at my colleague, who is the author of Bill 70. Thank you.

The Chair (Mr. Garfield Dunlop): Okay. Cindy?

Ms. Cindy Forster: Question: We also have the FAO here.

Mr. Bas Balkissoon: That one is ordered with dates and times.

Ms. Cindy Forster: That's ordered with dates and times. Are there any other bills, actually, that have been referred here at this point?

Ms. Lisa MacLeod: Yes. Not by order of the House, but we do have private members' business.

The Chair (Mr. Garfield Dunlop): Yes.

Ms. Cindy Forster: Private members' business on—

Ms. Lisa MacLeod: We have a legislated wage freeze, I believe.

The Chair (Mr. Garfield Dunlop): I'd have to come up with a list. I believe there are a couple more, at least.

Ms. Cindy Forster: I'd like an opportunity to have a look at those, to see what they are and what has been referred before I make a decision on who's going first—to have the opportunity to at least prioritize.

Ms. Lisa MacLeod: Do we have that list?

The Chair (Mr. Garfield Dunlop): Can you just give us a moment, and we can probably get that. Any other questions on that amendment?

Just give us a moment. We think we can add that to it. I had them yesterday, and I just can't recall them right now.

Interruption.

The Chair (Mr. Garfield Dunlop): You can't speak at this time, sir. We've got another person ahead of you at 2:45.

The Clerk of the Committee (Mr. Trevor Day): Bills before the committee: Bill 5, Comprehensive Public Sector Compensation Freeze Act, 2013; Bill 14, this bill; Bill 16, Municipal Amendment Act (Election of Chair of

York Region), 2013; Bill 49, Protecting Employees' Tips Act, 2013; Bill 50, Pooled Registered Pension Plans Act, 2013; Bill 55, Stronger Protection for Ontario Consumers Act, 2013; Bill 70, Regulated Health Professions Amendment Act (Spousal Exception), 2013. That's what's before the committee right now.

The Chair (Mr. Garfield Dunlop): Okay. So we've got a motion for 70, then 55.

Mr. Bas Balkissoon: Which is the government bill that we voted on yesterday.

The Chair (Mr. Garfield Dunlop): We voted on it yesterday, yes.

Ms. Cindy Forster: Right.

The Chair (Mr. Garfield Dunlop): Any other questions on the amendment?

Ms. Cindy Forster: I'd like to move a deferral until I have an opportunity to have a look at these bills and decide—

Mr. Bas Balkissoon: Bill 55? That's what we voted on yesterday, about consumer protection for furnaces—

Ms. Cindy Forster: I realize that, but there's a whole list of bills that are there. So I'd like an opportunity to at least have a discussion about what our position would be with respect to which bills should go first.

The Chair (Mr. Garfield Dunlop): If the committee agrees to defer it, we can defer it. If the committee does not want to, if you want to go to 55 and 70, we'll vote on the amendment first and then on—

Mr. Steve Clark: Bill 70 has been deferred since June.

Ms. Lisa MacLeod: We'd like to vote on the amendment.

Mr. Bas Balkissoon: And 55 has been debated, and all parties agree on 55. That's why I'm pushing it forward: to get it over with.

Ms. Lisa MacLeod: The official opposition would like to vote on the amendment.

The Chair (Mr. Garfield Dunlop): Okay, so we're going to vote on the amendment, then. All—

The Clerk of the Committee (Mr. Trevor Day): Wait, wait. Stop. It is a dilatory motion. It can be voted on in committee right now. The ability to postpone consideration, if Ms. Forster is moving that, is something we would have to vote on right now.

The Chair (Mr. Garfield Dunlop): Okay, so Ms. Forster is calling for a deferral.

The Clerk of the Committee (Mr. Trevor Day): Deferring business.

The Chair (Mr. Garfield Dunlop): Any other comments on that?

Ms. Cindy Forster: No.

The Chair (Mr. Garfield Dunlop): All in favour of Ms. Forster's deferral? Opposed to Ms. Forster's deferral? The deferral is lost.

Any further debate on the amendment? All in favour of the amendment? Opposed to the amendment? The amendment is carried.

Now the main motion, as amended: All in favour? Those opposed? Mr. Clark's motion carries.

The Chair (Mr. Garfield Dunlop): Is Ms. Angela Best-Longhurst here? We're going to take a five-minute recess, ladies and gentlemen. Don't go very far: just a five-minute recess because we have another group that's planned to go here.

The committee recessed from 1439 to 1445.

CO-OPERATIVE HOUSING FEDERATION OF TORONTO

The Chair (Mr. Garfield Dunlop): Okay, thank you very much, everyone. Ms. Longhurst didn't appear, so we'll go to the next person on our list. It's Angela Collins—

The Clerk of the Committee (Mr. Trevor Day): Judith Collins.

The Chair (Mr. Garfield Dunlop): Sorry, Judith Collins, from the Co-operative Housing Federation of Toronto. Judith, you have five minutes. Please proceed.

Ms. Judith Collins: Thank you for having me here at this hearing on Bill 14. My name is Judith Collins and I'm here representing the Co-op Housing Federation of Toronto. That's the organization that represents about 170 housing co-operatives in Toronto and York region. That represents about 45,000 people. Our organization, the Co-op Housing Federation of Toronto, also developed housing co-ops. We developed 57 housing co-ops under former housing programs. We also have a charitable foundation called the Diversity Scholarship Program that was founded in 2004, and that program provides scholarships to youth going to post-secondary education. We're very proud of that program. Over the years, since 2004, over 200 youth in co-ops have received diversity scholarships, and over \$1 million has been awarded to those 200 students. So we're a very active organization.

My job there is an adviser of member services. I'm a front-line person with the housing co-ops. I will chair board meetings. I will chair member meetings, offer financial advice, work with co-ops, provide education or training or coordinate those kinds of things. So that's my job.

I also lived in a housing co-operative for 22 years: Riverdale housing co-op, in the east end of Toronto. There I was on the board of directors, actively involved. I appreciated the opportunity that the housing co-operative movement gave me to have a stable and secure place for myself and my family to grow up in.

In my work with co-ops, since we're talking about Bill 14—and one of the key areas of eventual eviction is often arrears. Often with my work in housing co-ops, I'm out there when things are not great. Sometimes I say, "If I'm coming to the co-op, it's not good news." That being said, co-ops struggle to get back on track with things like arrears when they've gone too high. Some of the reasons they've gone too high are that maybe there has been some weak governance; maybe there has been some poor management. But whatever, the job is to get it back on track. To do that, it's a multi-level approach with the co-

op housing board and with the members, including getting people back on track to start having them at least start paying their current housing charge, regardless of what they owe, because sometimes these amounts are quite high. But if the co-op has been somewhat to blame in not being rigorous enough in preventive arrears processes, the board doesn't like to take the approach that, "Now you all have to leave." So it's a longer approach to turn that situation around, but it does involve bringing people back to the board and making maybe conditional eviction decisions, which is often the case. Particularly if there's a new board and they have to see the households, they still want to give people one more chance to try to turn that around. Often, that means the co-op will go into longer repayment agreements, provided that the member will at least be able to meet the current monthly charge so that things don't get any worse.

Along with that, there's also an education piece with arrears, and I think this is part of where this important member control comes in with housing co-ops, because often, the procedures haven't been as good as they should have been. Sometimes I take a new arrears bylaw to the members of housing co-ops, and generally members of housing co-ops, even though there may be 25% of that co-op who are not in compliance and paying their regular monthly housing charge—most people will still say, "We need to do a lot better. We don't want to lose our homes. We need to do more maintenance. We're going to pass this bylaw that has stronger procedures in it, and then we want the board to follow it." So that's an example of member control, how co-ops take this decision-making to heart at the level of all the members, and then direct the board to say, "Now go ahead and follow these processes, and let's see if we can't be in a better place in a year or so."

The Chair (Mr. Garfield Dunlop): You're just about out of time, but make a few more comments if you wish.

1450

Ms. Judith Collins: Okay. So I just wanted to reiterate what many other people have said: that the eviction process that the co-ops have is time-consuming, it's expensive, and it truly is not a level playing field for the members of housing co-ops. We often get calls at the Co-operative Housing Federation of Toronto from members looking for legal representation. We used to have a list of lawyers who we could refer members to. Most of those lawyers don't take cases. The community legal clinics don't have the money to take the cases. People are really left without a voice.

Thank you for hearing me, and I look forward to the passage of Bill 14.

The Chair (Mr. Garfield Dunlop): Thanks so much, Judith.

Ladies and gentlemen, you will hear—in a couple of minutes, the bells will start ringing to bring us back into the House. We're going to keep going right through till 3, okay?

Mr. Mauro, the Liberal caucus. Three minutes.

Mr. Bill Mauro: Ms. Collins, thank you for your presentation. I'm happy you had an opportunity to make it onto the agenda today.

I just thought I'd leave it open to you to add anything that you'd prefer to. I know you only had five minutes to give your presentation. We've had a pretty nice, broad range of presentations today, but is there anything you'd like to add? I'll give you my two to two and a half minutes here to add anything you'd like.

Ms. Judith Collins: You're putting me on the spot, here.

Mr. Bill Mauro: I'm going to put you on the spot.

You don't have to use the time. If you want to use the time—

Ms. Judith Collins: There were questions about governance earlier. Our organization is the Co-op Housing Federation of Toronto. We really encourage that the governance, the transparency, the accountability and the fairness be available to all co-op members. Some of the ways we do that is we do supply neutral chair people for difficult meetings. That's a service that co-ops don't pay for—it's included in their annual dues that they pay to belong to the organization—but that allows for a fair, transparent process in terms of difficult meetings.

As well, we would always encourage that, with a difficult meeting, whether it's an eviction or whether it's another issue that a member has and wants the membership to hear—using secret ballots, for instance. If there is a motion to overturn a board, that would always be done by a secret ballot. Some of those issues are issues where people may not feel that they can speak up, but they do have the option, and most co-ops use it, to use a secret ballot, where intimidation would not be there in the same way as if you were just asking people to raise their hands to, say, get rid of so-and-so as a director.

Those are some issues that I think I heard people talk about this afternoon.

Mr. Bill Mauro: Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Mauro.

Now to the PC caucus: Mr. Clark.

Mr. Steve Clark: Thank you very much for your presentation. I appreciate that you did it on short notice.

It sounds like weak governance has been a hot topic today before the committee. I'd be really interested in hearing your opinion on who you think should have a role in helping that. Should the ministry take a role, the Ministry of Housing? Should it be the federation? Who do you think should take the lead for some changes and some extra education?

Ms. Judith Collins: I think that the co-op housing sector as a whole takes responsibility in terms of ensuring that their model of co-op housing is well-run, accountable and transparent; and that any efforts to improve that can only go to strengthen co-op housing, but also strengthen the request for new units of co-op housing. So I think that that's important. It also is going back to the idea of a democratic structure and people making good

decisions about their homes, having the right information and training and able to make those good decisions.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the NDP caucus. You have three minutes.

Ms. Cindy Forster: Thank you very much for being here today. We heard from a number of presenters today with respect to wanting us to expand the scope of this bill to actually allow co-op members and others to use the Landlord and Tenant Board for the rent subsidy calculation and rent-geared-to-income calculation piece. What is your opinion of that impact on Toronto co-op members?

Ms. Judith Collins: For housing co-ops, if they're regulated with the Housing Services Act and the service manager is the city of Toronto, which is about half of our membership—not quite half; maybe 45%—there's a built-in internal review process that is required under the regulation. Co-ops have to have a policy on how they're going to do that review. We have offered our expertise to co-ops to take that on if a housing co-op would want to. An outside third-party person who, if a member requests—if they feel that it hasn't been calculated properly, somebody else can take a look at that and review it and then write a report and have that done.

Right now, in the city of Toronto for co-ops, again under the Housing Services Act, the service manager has taken the responsibility of reviewing any decisions where the subsidy is actually being terminated for any other reason than an increase in income.

Ms. Cindy Forster: Thank you very much.

The Chair (Mr. Garfield Dunlop): Anything else, Cindy? Okay.

Well, thank you very much, Judith, for your presentation this afternoon.

COMMITTEE BUSINESS

The Chair (Mr. Garfield Dunlop): That concludes our—yes, Cindy?

Ms. Cindy Forster: Yes, I have a motion I'd like to read into the record.

The Chair (Mr. Garfield Dunlop): Okay.

Ms. Cindy Forster: I move that the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 50:

- (1) One day of public hearings and one day of clause-by-clause consideration when the committee next meets during its regularly scheduled meeting times, upon reference of Bill 55 to the House for third reading;
- (2) Advertisement on the Ontario parliamentary channel, the committee's website and the Canada NewsWire;
- (3) That witnesses be scheduled on a first-come, first-served basis;
- (4) Each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members;
- (5) The deadline for written submissions is 3 p.m. on the day of public hearings;

(6) That the research officer provide a summary of the presentations by Monday morning of the following week;

(7) The deadline for filing amendments with the Clerk of the Committee be 12 noon on the day preceding clause-by-clause consideration of the bill.

This is the tip-out bill.

The Chair (Mr. Garfield Dunlop): Pardon me?

Ms. Cindy Forster: The tip-out bill.

The Chair (Mr. Garfield Dunlop): Okay. Are you asking a question, Mr. Balkissoon?

Mr. Bas Balkissoon: Yes. What is Bill 50? Give us a refresher.

Ms. Cindy Forster: The tip-out bill. Michael Prue's—

Mr. Bas Balkissoon: Oh, Michael Prue's bill.

Ms. Cindy Forster: Michael Prue's bill.

Ms. Lisa MacLeod: Chair, the official opposition is prepared to support this motion and we'd like to take the vote.

Ms. Cindy Forster: Oh, Bill 49. Sorry.

The Chair (Mr. Garfield Dunlop): Bill 49.

Ms. Cindy Forster: Bill 49, yes.

The Clerk of the Committee (Mr. Trevor Day): The motion says 50.

Ms. Cindy Forster: Bill 49, yes.

The Chair (Mr. Garfield Dunlop): We'll have to amend it to say 49.

Mr. Bas Balkissoon: Mr. Chair?

The Chair (Mr. Garfield Dunlop): Yes, go ahead.

Mr. Bas Balkissoon: Can I just ask for a 10-minute recess so I can—

The Clerk of the Committee (Mr. Trevor Day): It'll take us past—

The Chair (Mr. Garfield Dunlop): If you ask for a deferral now, we won't be able to vote on it right now.

Ms. Lisa MacLeod: Can we vote on it now?

Mr. Bas Balkissoon: I'm asking for a 10-minute recess.

Ms. Lisa MacLeod: No, we can't. We have, like, two seconds.

The Chair (Mr. Garfield Dunlop): A 10-minute recess will take us to the next meeting.

Mr. Bas Balkissoon: That's what I'm asking for.

The Clerk of the Committee (Mr. Trevor Day): Are the members ready to vote?

The Chair (Mr. Garfield Dunlop): Are the members ready to vote on what?

The Clerk of the Committee (Mr. Trevor Day): He gets the recess before the vote.

The Chair (Mr. Garfield Dunlop): Do you want the recess before the vote?

Mr. Bas Balkissoon: Yes.

The Chair (Mr. Garfield Dunlop): I'm sorry.

The Clerk of the Committee (Mr. Trevor Day): So when we come back, the first thing we're going to do is vote on this.

The Chair (Mr. Garfield Dunlop): Okay. We've got a recess. That concludes the meeting today. We will be doing Bill 14 next week.

We're adjourned.

The committee adjourned at 1459.

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Wednesday 18 September 2013

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Mercredi 18 septembre 2013

Standing Committee on the Legislative Assembly

Non-profit Housing
Co-operatives Statute Law
Amendment Act, 2013

Comité permanent de l'Assemblée législative

Loi de 2013 modifiant des lois
en ce qui concerne
les coopératives de logement
sans but lucratif



Chair: Garfield Dunlop
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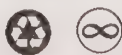
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 18 September 2013

Mercredi 18 septembre 2013

The committee met at 1304 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Garfield Dunlop): Good afternoon, everyone. Welcome to the Standing Committee on the Legislative Assembly. We have three items on the agenda today. The first is a vote on the motion by Ms. Forster regarding Bill 49 by Mr. Prue, and I welcome Mr. Prue today. Second is the report of the subcommittee and third is the clause-by-clause consideration of Bill 14.

You all have a copy of Ms. Forster's motion. Are there any questions on Ms. Forster's, or does anyone want it read again? Okay, those in favour of Ms. Forster's motion? All in favour? There's nobody opposed? Okay, so it's carried.

Mr. Michael Prue: Thank you from the bottom of my heart.

The Chair (Mr. Garfield Dunlop): Thank God you were here, Mike.

Mr. Bas Balkissoon: Michael, you're taking us out for dinner; you pay the tips.

SUBCOMMITTEE REPORT

The Chair (Mr. Garfield Dunlop): We're now at item 2 in the agenda, the report of the subcommittee. Mr. Balkissoon, I understand you have a motion.

Mr. Bas Balkissoon: I have the report of the subcommittee, Mr. Chair.

Your subcommittee on committee business met on Wednesday, September 11, 2013, to consider a method of proceeding on Bill 95, An Act to establish a Financial Accountability Officer, should it pass second reading, and recommends the following:

(1) That, pursuant to the order of the House dated June 5, 2013, the committee hold public hearings on Bill 95 in Toronto on Thursday, September 19 and Monday, September 23, 2013, as required.

(2) That the Clerk of the Committee, with the authorization of the Chair, post information regarding public hearings on the Ontario parliamentary channel, the Legislative Assembly website and the Canada Newswire.

(3) That the former parliamentary budget officer, Kevin Page, be invited to make a presentation of up to 10 minutes, followed by up to three minutes of questions from each caucus.

(4) That interested parties who wish to be considered to make an oral presentation contact the committee Clerk by 5 p.m. on Wednesday, September 18, 2013.

(5) That groups and individuals be offered five minutes for their presentation, followed by up to three minutes of questions from each caucus.

(6) That witnesses be scheduled on a first-come, first-served basis.

(7) That presentations not be scheduled during question period.

(8) That Monday, September 23, 2013, not be scheduled until Thursday, September 19, 2013, is fully scheduled.

(9) That the Clerk of the Committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That's the report of the subcommittee, Mr. Chair.

The Chair (Mr. Garfield Dunlop): You've all heard the report. Are there any questions on the subcommittee's report? Ms. Forster.

Ms. Cindy Forster: My question is, do we know how many actual people will be making presentations at this point?

The Clerk of the Committee (Mr. Trevor Day): The deadline is today at 5. As of coming to this meeting, all we have is Mr. Kevin Page.

Ms. Cindy Forster: Then could I, at this point, make an amendment to this motion, perhaps under number 3? At the moment we've only invited Kevin Page to present for up to 10 minutes, followed by three minutes of questions from each caucus. Could we amend that to, say, 20 minutes or 30 minutes, followed by 10 minutes for each party?

Mr. Bas Balkissoon: Mr. Chair?

The Chair (Mr. Garfield Dunlop): Excuse me. I've heard the motion. A question on the motion?

Mr. Bas Balkissoon: I think it's a fair request by the member, but until the deadline is passed it would be very difficult to vary what we discussed at subcommittee. I think it would be inappropriate, just in case.

The Chair (Mr. Garfield Dunlop): What's the timing on the amendment?

Ms. Cindy Forster: What was the timing of it?

The Chair (Mr. Garfield Dunlop): Yes, that you mentioned.

Ms. Cindy Forster: Thirty minutes for Kevin Page and 10 minutes for each party for questions.

The Chair (Mr. Garfield Dunlop): I don't really have a problem, especially if it's the first thing in the morning. Yes, go ahead, Mr. Ouellette.

Mr. Jerry J. Ouellette: The one thing I would suggest is that the time be divided equally to a maximum of what Ms. Forster specifically asked for, so that in the event that it is filled up or not filled up, the time would be equally distributed, to a maximum of what was mentioned by Ms. Forster. That way it accommodates her and anybody else who comes in with Bas's suggestion.

The Chair (Mr. Garfield Dunlop): We should have quite a bit of leeway. It's first thing tomorrow morning, anyhow, and I think we can easily ask Mr. Page at that time if he can spend more time doing it.

The Clerk of the Committee (Mr. Trevor Day): Subject to his availability.

The Chair (Mr. Garfield Dunlop): Yes.

The Clerk of the Committee (Mr. Trevor Day): It will be done by video conference. What I'm understanding here is that with 30 minutes and 10 minutes per caucus, we're looking for an hour commitment from Mr. Page, subject to us not receiving further delegations that would fill that time.

Ms. Cindy Forster: Good.

The Chair (Mr. Garfield Dunlop): Okay, that's fine.

The Clerk of the Committee (Mr. Trevor Day): A question on the amendment?

The Chair (Mr. Garfield Dunlop): All in favour of Ms. Forster's amendment? That's carried.

Then the whole report, as amended. In favour? Okay, that's carried. Thank you very much.

1310

So that's Bill 95. We'll deal with that first thing tomorrow morning in room 151.

NON-PROFIT HOUSING
CO-OPERATIVES STATUTE LAW
AMENDMENT ACT, 2013
LOI DE 2013 MODIFIANT DES LOIS
EN CE QUI CONCERNE
LES COOPÉRATIVES DE LOGEMENT
SANS BUT LUCRATIF

Consideration of the following bill:

Bill 14, An Act to amend the Co-operative Corporations Act and the Residential Tenancies Act, 2006 in respect of non-profit housing co-operatives and to make consequential amendments to other Acts / Projet de loi 14, Loi modifiant la Loi sur les sociétés coopératives et la Loi de 2006 sur la location à usage d'habitation en ce qui concerne les coopératives de logement sans but lucratif et apportant des modifications corrélatives à d'autres lois.

The Chair (Mr. Garfield Dunlop): We're down to number 3, the clause-by-clause consideration of Bill 14, An Act to amend the Co-operative Corporations Act and the Residential Tenancies Act, 2006 in respect of non-

profit housing co-operatives and to make consequential amendments to other Acts. At this point, we have no amendments. Is there anyone who has further amendments?

I'd like to ask each caucus if they have anything they'd like to say, because my plan right now, if there are no amendments, is to clump them all into one motion, 1 to 60.

Mr. Clark?

Mr. Steve Clark: Thank you very much, Mr. Chair. My only comment is that I think we heard from a number of members in the delegation making suggestions on further changes, and I also made a comment during the public deputation process that if the committee—certainly I want to make it clear that I'm not trying to delay any piece of legislation that is before this committee for their deliberations, but I think at some point, once we clear the legislative deck, so to speak, this committee should consider whether we should do a review and have hearings to allow tenants and landlords and other people within the co-op industry to provide comments on other legislative changes that should be considered. I'm not suggesting that we deal with a study today, but I think once the legislation is finished, we should put it on a future agenda. I'm not trying to hold up anything, but I wanted to put those comments on the record.

The Chair (Mr. Garfield Dunlop): Thanks, Mr. Clark.

Anybody from the NDP caucus have a comment on anything?

Ms. Cindy Forster: I just wanted to say a few words. The NDP would have proposed some amendments to this bill, particularly around the presentation that actually came from ACTO around the rent subsidy calculations, but we were informed, when we looked into that with leg counsel, that it would likely be ruled out of order, and so we're not coming forward with any amendments at this time, but certainly we're prepared to look at that in the future.

There were a number of individual stakeholders that came forward as well that perhaps are in co-ops that don't run as effectively as other co-ops in the province, and some of their issues likely need to be addressed as well.

So I would actually concur that I would certainly be open to having a review of tenants' issues and landlords' issues in front of this committee somewhere in the future to hopefully address those concerns.

The Chair (Mr. Garfield Dunlop): Thanks, Ms. Forster.

Anybody from the—yes, Mr. Mauro.

Mr. Bill Mauro: Thank you, Chair, and thank you to the opposition parties for their comments. We are extremely gratified to be here at this point today, given what's been said already and being left with the understanding that we're moving forward here quickly to get this bill back into the House.

We are in a position now where I'm not sure what the total time is that this bill has been before the Legislature,

but we are extremely gratified to see it moving forward. I want to thank the opposition for their support, and we look forward to expeditiously having this back in the House for third reading.

Mr. Bas Balkissoon: Mr. Chair, could I just add a comment?

The Chair (Mr. Garfield Dunlop): Yes, Mr. Balkissoon.

Mr. Bas Balkissoon: I just want to echo the sentiments of my colleagues on the other side, too, because, rightfully so, some other folks had shown up here with issues with co-operatives, and it's unfortunate that the intent of this act was strictly to deal with the evictions and the Landlord and Tenant Board. The issues they raised are valid issues, and they would have had to be ruled out of order, as my colleague from the NDP realized.

The right place to do that is at another time and that issue being raised with the Minister of Housing, because rent subsidies fall under the municipalities or the service managers that are appointed in every region that deals with subsidized housing. It would be inappropriate to put

that in front of the Landlord and Tenant Board, because they don't normally deal with that type of issue.

I just want to make it clear that we do understand the comments that were put in front of us, yes, last week, but unfortunately this bill had an intent, and anything that would have been brought in from outside would have been ruled out of order. So hopefully that will come back when we clear the deck.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much, everyone. There are going to be four motions here.

I'm going to ask, will sections 1 to 60 pass? Okay, that's carried.

Shall the title of the bill carry? Carried.

Shall Bill 14 carry? Carried.

Shall I report Bill 14 to the House? Agreed.

I want to thank you for getting so much productivity after last summer, when we were trying to do changes to the standing orders, which will never happen, I don't think, by the way. Thank you to the committee. This meeting is adjourned until tomorrow at 9.

The committee adjourned at 1317.

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Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Thursday 19 September 2013

Journal des débats (Hansard)

Jeudi 19 septembre 2013

Standing Committee on the Legislative Assembly

Financial Accountability
Officer Act, 2013

Comité permanent de l'Assemblée législative

Loi de 2013 sur le directeur
de la responsabilité financière



Chair: Garfield Dunlop
Clerk: Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 19 September 2013

Jeudi 19 septembre 2013

*The committee met at 0900 in room 151.*FINANCIAL ACCOUNTABILITY
OFFICER ACT, 2013LOI DE 2013 SUR LE DIRECTEUR
DE LA RESPONSABILITÉ FINANCIÈRE

Consideration of the following bill:

Bill 95, An Act to establish a Financial Accountability Officer / Projet de loi 95, Loi créant le poste de directeur de la responsabilité financière.

The Chair (Mr. Garfield Dunlop): Good morning, everyone. Welcome to the Standing Committee on the Legislative Assembly. We're here this morning to have hearings on Bill 95, An Act to establish a Financial Accountability Officer. We only have one deputation; that's Kevin Page. We agreed yesterday to give Kevin up to 30 minutes for his comments—he's video conferencing, of course—and 10 minutes to each of the three parties.

Mr. O'Toole?

Mr. John O'Toole: Yes. Before we start, Mr. Chair, if I may, I'd just like to put a little frame around. Thank you very much. It's a pleasure to be here on Bill 95, and I am looking forward to the deputation, who I've read and heard much about.

I just had a little frame. The legislation—I want to make sure I understand it. This legislation, Bill 95, is the result of a kind of a motion, of an accord, between the NDP and the Liberals in the budget, right? That was kind of part of the agreement. They have an accord within the budget so that the NDP would support the budget, so we're discussing—

The Chair (Mr. Garfield Dunlop): Mr. O'Toole, we're discussing Bill 95. It was an act introduced in the House.

Mr. John O'Toole: Yes, okay. I just want to make sure we know the background to it. It's important that Mr. Page knows that.

The Chair (Mr. Garfield Dunlop): Well, you can ask those questions in your 10 minutes.

Mr. John O'Toole: Yes, okay.

Mr. Steven Del Duca: That's not really within the scope. We're here to discuss the bill itself, Bill 95, and we're actually here today to hear from Mr. Page.

MR. KEVIN PAGE

The Chair (Mr. Garfield Dunlop): With that, we'd like to welcome Mr. Kevin Page to our Standing Committee on the Legislative Assembly. Kevin, welcome. Can you hear me, Kevin? We're not able to hear Kevin quite yet.

Mr. Kevin Page: Can you hear me now?

The Chair (Mr. Garfield Dunlop): We sure can.

Mr. Kevin Page: Okay, good. Thank you.

The Chair (Mr. Garfield Dunlop): Kevin, we do have some of the background material that you sent. You have up to 30 minutes—if you would like to spend as much time as you want discussing the bill.

Mr. Kevin Page: Thank you, Chair. I think maybe 10 minutes or so would be enough for me.

The Chair (Mr. Garfield Dunlop): Okay. Please feel free to go right now if you would like.

Mr. Kevin Page: Members, thank you for this opportunity to share my thoughts on Bill 95, An Act to establish a Financial Accountability Officer for the province of Ontario. It is an honour to be here with you today—well, actually not quite here, but here in Ottawa. I have a few opening remarks on the initiative, on the draft legislation and on some of the challenges of implementing a legislative budget office function.

First, on the initiative: I applaud the initiative. As a former Parliamentary Budget Officer and as a citizen and taxpayer in the province of Ontario, I want evidence-based debate and decision-making by my political representatives and leaders. I want my provincial member of Parliament to have all the financial information and analysis he or she needs before they vote on authorities for new programs, existing programs or changes to tax legislation. I want the Legislature to be in a good position to hold the executive to account. It is essential for good fiscal management and for our democracy.

I think the Financial Accountability Officer initiative can promote fiscal transparency and the use of financial analysis in debate, scrutiny and accountability. More importantly, this is the opinion of the OECD and the IMF: independent fiscal institutions can help.

This initiative is not a panacea or universal remedy for trust and institutional renewal, but in a 21st-century context, with complex decision-making and accountability challenges, I argue that more transparency is better than less. More data points before decisions are taken with taxpayer money are better than less.

Let the public service and officers of Parliament give you what you need to do your jobs. We all benefit: The executive benefits, the Legislature benefits, the public service benefits, officers of the Legislature benefit and, most importantly, the people of Ontario benefit.

With respect to the draft legislation, I think the draft legislation, Bill 95, to establish a Financial Accountability Officer, stands up quite well when measured against OECD best practices, principles and experiences. It is stronger than the legislative provisions for the Parliamentary Budget Officer in the Parliament of Canada Act.

Unlike the federal legislation, it makes the Financial Accountability Officer an officer of the assembly. This is good. It makes the officer both responsible and accountable for the legislative mandate and the use of resources.

Unlike the federal legislation, it ensures that all political parties will have a say in the choice of the next Financial Accountability Officer. This is also good.

Unlike the federal legislation, it provides protection for independent work of the Financial Accountability Officer. He or she will be dismissed only if there is cause. By comparison, I worked at the pleasure of the Prime Minister. In good humour and with all due respect, it is not the job of a legislative budget officer to provide pleasure.

Notwithstanding the relative strengths of Bill 95, you may wish to consider some adjustments that can clarify and facilitate the work of the Financial Accountability Officer. I have provided some suggestions for consideration in a background document, with the assistance of my colleague Tolga Yalkin, also at the University of Ottawa faculty of law.

On the appointment: You may wish to consider adding appropriate credentials in the legislation to ensure that your Parliament has the necessary access to expertise and experience.

On tenure: You may wish to strengthen the language with the use of words like “good behaviour” to ensure that the Financial Accountability Officer is as comfortable as can be in the provision of difficult financial analysis.

On mandate: You may wish to consider clarification around the use of the word “independent,” to ensure that all work conducted by the Office of the Financial Accountability Officer is free from political and bureaucratic interference.

On information access: You may wish to clarify the language with respect to “financial” and “economic,” or use something more broad, like “information, records, explanations and assistance,” on what can be shared with the Financial Accountability Officer, to avoid many inevitable and unnecessary confusions that will impede the work of the officer and the assembly.

Now, some challenges: The experience in Canada at the federal level and in the OECD countries indicates that the implementation of a legislative budget office is challenging. Good legislation is a necessary but not a sufficient condition for success, but you are well under way with the revision of good legislation.

Independent fiscal institutions like the Office of the Financial Accountability Officer succeed in cultures that promote fiscal transparency and the use of financial analysis in debate, scrutiny and accountability. You need to promote this culture. We are struggling in Ottawa with this culture. I want you to succeed in Toronto.

Independent fiscal institutions will succeed when the expectations of the clients are clear, and you are the clients. Do you want independent economic and fiscal projections? Do you want long-term fiscal sustainability analysis? Do you want peer-reviewed costing on new programs and changes to tax legislation? Do you want databases to track spending and performance data against authorities provided? If you do, then say so.

Independent fiscal institutions succeed when their mandates and budgets are sized appropriately—not more, not less. Make the Office of the Financial Accountability Officer be the vanguard of fiscal transparency. Hold the officer responsible and accountable. To quote George Bernard Shaw, without change, there is no progress.

Thank you for this initiative. I look forward to your questions.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Page. We’ve got 10 minutes for each party. We’ll start with the official opposition for 10 minutes.

Mr. O’Toole, for the first question?

Mr. John O’Toole: Thank you very much, Mr. Page, for, I believe, your thoughtful instructions to this committee. I’m quite aware, as most people are here, of the work you’ve done in Ottawa and some of the points you make with respect to the points—specifically, the initiative and the idea being evidence-based.

0910

My colleague Doug Holyday is a new member of the Legislature, but not new to being in public office. He probably has about 25 or 30 years of experience, both as a mayor and other things. But he is, in fact, the official accountability critic. In my role I’ve been replaced by Mr. Holyday, but I’m genuinely interested in this, having served as the parliamentary assistant to the Minister of Finance for three or four years and having been on the finance committee for probably 10 years. It generally drives the entire agenda in any government at any level—it’s all about the money. Ultimately, the taxpayers—we’re at their service, as I understand it.

I don’t want to just ramble on here myself; I will get time to do that, I hope, during the day. How long are we sitting?

The Chair (Mr. Garfield Dunlop): You’ve got 10 minutes. You’re using it right now.

Mr. John O’Toole: I’m just wondering: How long is this process going to run, with just 30 minutes for this—

The Chair (Mr. Garfield Dunlop): There’s one deputation today, and you’ve got 10 minutes today. The next 10 minutes is the time you’re going to have today.

Mr. John O’Toole: Okay, very good. So after this one, we’re not going to hear—okay.

On the initiative, the idea that you thought was evidence-based is very important. I have several docu-

ments with me here that were issued in the last couple of years by the Auditor General of Ontario. The new one, I believe, is in the midst of writing a report also, independently. I would hope the independence of the officers of the Legislature include the Ombudsman, of course, as well as the Auditor General, the Integrity Commissioner, the Environmental Commissioner and others. I respect that, and I think all members of the Legislature respect that.

You also mentioned something about credentialing. I think credentialing is very important. Do you have any recommendations in your response? You could probably let us know whether it's a CA or a CMA or a law degree or whatever the credentials should be.

I'd also wonder if you think this should be a civil servant. I think there's sort of a—not collusion; that's too strong a word, but I would say there's a conflict if someone is in the civil service at the leisure of the government. I question that, too, having been here for 18 years. A lot of really excellent civil servants go on to become—Colin Andersen, for instance, was the deputy of finance; he was the deputy of health. He was the deputy of pretty well everything. He was the rising star. Now he's the head of the Ontario Power Authority, which is basically why we're meeting, because they've spent about half a billion dollars scandalously. The number we're getting from the government is \$40 million. Well, it turns out it's probably a billion dollars. So in that context, I'm very frustrated, as a member of the opposition—that this isn't just another shield from getting to the person who has the keys to the vault, and that's the Premier. They have the keys to the vault and the getaway car. My point is, why do they need another layer of bureaucracy? Look, I'm all for accountability. The only thing is, for 10 years we haven't had an ounce of it.

Interjections.

Mr. John O'Toole: I need 10 minutes, pretty well all of it. He can have as long as he wants to respond to me.

I'd say that access is another thing. When I looked at the explanatory note in the bill, there are some exceptions that are troubling—and I'm sure that you've read this—exceptions with respect to cabinet records. No access to cabinet records—well, how do you get to the bottom, no matter what your credentials or your independence, if you can't get the data that you need to do your job?

I would hope that you would recommend to this group that, first of all, they're not a civil servant, and that they're as adamant and rigorous as André Marin—I'm sure you have great respect for the work he does—and the independence. That means that the elected members of all parties should have full access.

Right now we have a committee that's dealing entirely with the gas plants. They've been seized with that—

Interjection.

Mr. John O'Toole: No, no. You can use your time however you want.

He can seize that opportunity to rigorously go at it. Now, we had this done already. In terms of this, I want you to—because you're an expert and you can follow it.

There's a report issued by the Auditor General. I'm sure you have great respect for Mr. McCarter. He's highly respected around the world, really. This was on the Mississauga gas plant cancellation, and it was quite critical.

Also, as part of the last election the Auditor General issued a report as well, and that report, basically, was required by law to say what was the state of the finances. It went on to say that they had a structural deficit, and yet they lied—if that's permitted. Well, they weren't exactly honest; let's put it that way.

The Chair (Mr. Garfield Dunlop): You have four minutes left, by the way.

Mr. John O'Toole: Okay. He gets as much time as he wants to reply, right?

The Chair (Mr. Garfield Dunlop): You're using his answer time as well.

Mr. John O'Toole: I'm using his time? Well, in that case, I'm just putting a few things on the table in the context of what this committee is supposed to do. We're supposed to sign on to an agreement that was made by the NDP and the Liberals to have a new person come in, with some exceptional opportunities where the Premier can interfere with the person.

In the current legislation, if you've read it, as I have—and I am quite competent in reading—they could easily stickhandle around anything I needed to have. They could say it's not essential, not critical. So I'm somewhat disappointed—although I do want full and transparent accountability. I hear those words all the time, and they're misused here completely.

I do respect the work you did on the F-35 and a few other points that you made.

Maybe you could respond to the general outrage that I've expressed. I'm trying to calm down here.

The Chair (Mr. Garfield Dunlop): Would you like him to respond to what you just said?

Mr. John O'Toole: Yes, to the question I put on the table about what the evidence-based debate is about. What do you mean by that? What kind of independence would be a good one? And the other one is the access.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Page, you've got a couple of minutes to respond to Mr. O'Toole's comments, please.

Mr. Kevin Page: Thank you, Chair. With respect to “evidence-based,” we think that if the Legislature is going to have the capacity to hold the executive to account, they need to have financial information before they vote on new programs, existing programs or changes in tax legislation. So when we say “evidence-based,” they should have access to the same type of financial information that the cabinet and the Premier would see before they make a decision.

To me, as a public servant—I was a public servant in Ottawa for almost 30 years—I was quite familiar with where the bar needed to be set for the Prime Minister and our finance minister to sign off on it.

When I took the job as Parliamentary Budget Officer in Canada, the position of our office was that we wanted

to have members of the Legislature get that public service work—so you'll get to see, "Here's the advice we gave to cabinet."

In our view, it was not cabinet confidence. This was our work. It was the work done by public servants. If it was projections of where the economy goes, we would do risk analysis around those projections.

You raised the issue of, is the deficit cyclical or structural and do we have long-term issues? We think that the Legislature should see that work, and it should be independent work. It should be the work of the Financial Accountability Officer, in your case.

If it was costing, we think that they should get analysis that had methodologies behind it and had assumptions behind it and gave you a range of options. We hand that information over to members of Parliament, and they can debate with the executive in the sense of, "Okay, here is the money on the table." To me, that is evidence-based. "Evidence-based" is, decisions support evidence. It's work that's done by public servants. To me, it is not confidential. It should be made available to all Parliament and to, in fact, all Ontario citizens.

In terms of the word "independence," you need to know that the work that is done by your Financial Accountability Officer is the work of a Financial Accountability Officer that has not been under stress from either the bureaucracy or from the government, the executive. You want to set up the legislation, both from the appointment and from the provisions around the tenure—how this person would be released—to the length of the period. You want to make sure that this person feels that they're in a position to give that kind of independence.

To be honest, sir, our legislation did not do a very good job at the federal level. As a result, it was very hard to attract people to do this sort of work in Ottawa. But I think there were some improvements in the draft Bill 95.

With respect to the—

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Page. I'm going to go on to the NDP now.

Mr. Kevin Page: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you so much for your time with the official opposition.

To the third party: Ms. Fife.

Ms. Catherine Fife: Thank you very much. I'm here today with my colleague Cindy Forster. In the interest of not filibustering any answers that you may provide or advice that you may provide to the committee, and to address some of the confusion that the PCs are clearly experiencing on financial accountability, I'm going to ask you some specific questions, Mr. Page. I want to ask you as many questions as possible. I'm going to start right now.

0920

In your very concise opening remarks, you referenced "long-term financial analysis." What specific advice can you put on the record for Ontario's inaugural Financial Accountability Officer?

Mr. Kevin Page: With respect to long-term fiscal sustainability analysis?

Ms. Catherine Fife: Mm-hmm.

Mr. Kevin Page: Again, this is a body of work that is done in almost all OECD countries. In many cases, this work is legislated so that it has to be provided by finance departments. We found, at the federal level, that we weren't getting this analysis, so we were effectively the only people providing this analysis.

There are methodologies for doing this. It should be done at the provincial level. The OECD, the IMF, the PBO in Ottawa, would help the Financial Accountability Officer do this analysis.

Ms. Catherine Fife: Okay. Thank you. And how does the work done by the Parliamentary Budget Officer at the federal level differ from the work done by the Ministry of Finance or other ministries, and what is the advantage? I think we need to reinforce the advantage of independence, because clearly people are confused about how this legislation has been crafted and how different it is from the federal budgetary officer. Can you make some comments around that, please?

Mr. Kevin Page: In some ways, the work is very similar. In fact, most of the people who worked at the parliamentary budget office in Ottawa were previous finance employees. We do the same type of economic and fiscal projections. We do our own costing. We make that available to all of Parliament—I think this is what's different—whereas in the case of the finance department, they're there to support the executive. If the executive says, "Fine, thank you for the analysis, but we're not going to release it to the assembly, to Parliament or to," in your case, "the province of Ontario," then that work doesn't get seen.

I think that the work of a legislative budget office, the Financial Accountability Officer—they have a duty, I think, to make this information available to all of the assembly, to all of the province of Ontario. So it's really in the distribution of this material. The nature of the work is very much the same.

Ms. Catherine Fife: Can you discuss some of the projects you led as Parliamentary Budget Officer and some of the value provided by the PBO? Can you give us a couple of good examples, perhaps other than the F-35? I mean, everybody referenced it.

Mr. Kevin Page: Yes. Well, I think, we were in a position in the fall of 2008 to effectively say, unlike what the federal government was saying at the time, that we were headed for a recession and deficit. We were able to say that some of this deficit is now structural. Most of it was cyclical, but some of it was structural, that we had cut taxes and we had increased spending to the point where we created a structural nature. So even that deficit, if we got the economy to its potential, was still going to exist.

The government at the time had a different projection: did not see the recession coming, did not think the deficit was structural. Over time, they said, "Yes, there's a structural problem."

We were able to provide costing, when the government changed old age security, to Parliament that was

not provided by the Minister of Finance. We costed crime bills. We costed ships. Again, this is information that we were able to provide to all of Parliament that was peer reviewed by experts, in some cases, with experts from Ontario, other provinces and other countries, and we made this available to all of Parliament, to all Canadians. I think we felt that in five years we were able to give something that wasn't there before.

Ms. Catherine Fife: Okay. Thank you. Can you talk about some of the issues experienced by your office which haven't been addressed through this new legislation, through the FAO, in the province of Ontario—some of the issues, I guess, around, perhaps, not disseminating information or listening to the information that you were trying to provide the Parliament?

Mr. Kevin Page: I would start almost right—again, the improvements in the current legislation, in your legislation, do not exist at the federal level. Right from the appointment, nobody wanted to be the Parliamentary Budget Officer in Ottawa for Canada, because I worked at pleasure. I was effectively appointed by the Prime Minister. I was criticized right from the beginning because I was the Prime Minister's assistant secretary for macroeconomic policy. That couldn't possibly be unbiased, that I would be there to basically support the work of the executive. So you've changed this.

Again, I worked at pleasure. The Financial Accountability Officer can only be dismissed at cause. I think that's a big improvement. In this legislation, all political parties will have a voice in the decision of the next legislative budget officer, your Financial Accountability Officer. In my case—and, I guess, more specifically in a recent case—after I left the office in the spring, the process was taken over by the federal government. We now have a Parliamentary Budget Officer who has never worked on a budget, whereas, in my office, we had people who had decades of experience.

On information challenges—and I've made some recommendations, and this goes back to the previous member's point—I think we often struggle to get information from the departments. For the most part, it didn't stop us from doing the work. We were able to cost fighter planes and cost changes to old age security. We were able to look at crime bills because we could find information. We went to the provinces in some cases to get information, like on the crime bills.

Anyway, we did run into cases when the current government in Ottawa said it would freeze direct program spending and did not provide spending plans by department. So we had a struggle. Often bureaucrats—public servants—it wasn't in their interest to share this information because they knew we could make their lives difficult. So I think you can strengthen some of that legislation. We provided some text that can help avoid some of those inevitable discussions. Again, there are a few examples.

Ms. Catherine Fife: Okay, thank you.

You've mentioned that the current PBO has no experience whatsoever working on a budget now at the

federal level. That's completely unhelpful, but can you give us some idea of what the skillset of the FAO should be? The previous speaker mentioned accounting, but it's bigger than that, right?

Mr. Kevin Page: I think it is bigger than that. Again, you could debate whether you want your first Financial Accountability Officer to come from the public service or come from outside the public service. You'd want to make sure that this person has worked on the aspect of providing fiscal planning projections: projecting where the Ontario economy is going to go over the next five, 10, 15 years or longer and projecting what that impact of that economic forecast will be on the finances of Ontario. I think you want to make sure that your next Parliamentary Budget Officer had a role in costing: working with models and methodologies, working with people who can peer-review so they can provide costing, so that when you get this information—you as parliamentarians—you feel that that information is authoritative and you can use it. Then you can have bigger discussions, more important discussions, on, "Is this the right priority for the province? Is this the right policy direction for the province?"

Again, the work of a financial person is very much background work for the most part. It will encourage the public service to be more transparent. Hopefully, you find that helpful.

Ms. Catherine Fife: I do.

The Chair (Mr. Garfield Dunlop): You have a couple of minutes, Catherine.

Ms. Catherine Fife: Okay, thank you.

With the limited time that we have left, I think you made some good points about—it's more than just understanding numbers; it's understanding the province. I think one of your more salient points is that this office and this individual works not at the pleasure of one party or one person or one level of government; it's for the people of the province. I actually want to thank you for giving us very good advice at the onset.

One last question, though, around the internal operation: You have a unique insight into how the FAO office could truly be most effective. What sort of operational issues do you see—could clarify, and be very efficient at this level? What do they need to be effective?

Mr. Kevin Page: The first Financial Accountability Officer is going to be able to go to a number of people around the world to get help in terms of how to set up the office and help with the methodologies, building that kind of capacity. It would be really important if that person reaches out to the OECD, the IMF and even Ottawa, for that matter, where they can share this information and move up the learning curve faster.

Clearly, getting the talent within the office—it's a small office; it's a very big mandate—is going to be priority number one. And setting up a business model so that this person will work with you to say, "Okay, on selection of the work, given that there are going to be a lot of competing demands, here's the frame. We're going to use risk; we're going to use material. This is why we're going to focus on costing this particular project

versus another. This is why we're going to spend time investing and doing these sorts of projections and analyses around these projections," so that you're comfortable as clients that they're making the right decisions.

Getting the right people, the right business model, reaching out to other organizations that do legislative budget office work: I think you can get real value in your first year from the Financial Accountability Officer.

Ms. Catherine Fife: Absolutely. Thank you very much, Mr. Page. You've been very helpful.

Mr. Kevin Page: Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much, Catherine, and to the third party.

We'll now go to the governing party. Mr. Del Duca?

Mr. Steven Del Duca: Thanks very much, Mr. Chair.

Mr. Page, good morning. Thank you very much for being with us from your location, for your insight and for the fantastic work that you did for quite some time in ensuring that Canadian taxpayers were kept up to speed with respect to what was happening federally. There are three of my colleagues with me here today, and hopefully we're each going to get a chance to ask you a question.

0930

I wanted to begin by asking: In your experience with the work that you did in Ottawa, did you ever find that you, in any way, shape or form, had kind of a conflicting mandate with other officers, like the Auditor General?

Mr. Kevin Page: No, actually, I felt quite comfortable that we had a sense of where the lines needed to be drawn. In our work as a legislative budget office, it was very much forward-looking. We're projecting in the future, providing planning frameworks and providing costing before decisions are being taken and before authorities have been provided by members of Parliament. Whereas the Auditor General is very much retroactive; after the money has been spent, they're using a different set of tools, auditing tools.

But there were examples where we saw complementarity. For example, on the fighter plane work, we did upfront costing work. We made that work available; it was peer-reviewed. A year later, the Auditor General went back, looked at the processes that were taking place at the Department of National Defence and within the Privy Council office and was able to complement that work by auditing the process around procurement. So we provided upfront costing, and the AG looked at the process. I think we complemented each other.

Mr. Steven Del Duca: Thanks very much for that answer.

The Chair (Mr. Garfield Dunlop): This is Ms. Damerla with the next question.

Ms. Dipika Damerla: Thank you, Mr. Page, for being here—well, being here via teleconferencing. I do have to say that I've read some of your columns in various newspapers with interest. You certainly bring a wealth of knowledge.

My question was, have you ever had to refuse a request that was made of your office when you were the Parliamentary Budget Officer?

Mr. Kevin Page: I think there were a number of conversations we would have with parliamentarians where they would ask us to do work. These were the kind of conversations that would be almost in confidence. They'd say, "Could you provide this type of costing? Could you find a way to get maybe an aboriginal school in my riding?" So we would basically—part of that conversation would have been, "Well, we're economists. We're financial officers. We can't actually do that work. This work goes beyond our legislative mandate." In that sense, there was a lot of work, as part of that early relationship-building with members of Parliament, where we'd say, "We're not really built to do that." So, yes, I think there were examples like that.

Also, we got way more demands, in our third, fourth and fifth years, for work than we were able to do, particularly in the costing area. So we had to tell parliamentarians, "You're on the list, but you're well down the list," because we were focused on what we thought were higher, more riskier projects.

Ms. Dipika Damerla: How much time do we have left?

The Chair (Mr. Garfield Dunlop): Your party has another seven minutes.

Ms. Dipika Damerla: So I'll just ask another question, and then I'll pass it on to my colleague.

The Chair (Mr. Garfield Dunlop): Yes, okay.

Ms. Dipika Damerla: I was just wondering—and this is more a philosophical question—I just wanted your thoughts as to how you balance the rights of an independent officer of the Parliament and supremacy of the Legislature and the will of the people.

Mr. Kevin Page: Well, I continue to see myself, even while I'm at a university, as a public servant, so as somebody who supports the work of parliamentarians, knowing that Parliament works for Canadians. We never saw our work as usurping the role of parliamentarians. Parliamentarians, in our view, had a role, particularly the ones that we were supporting, to hold the executive to account. Often the executive as well was supported by the public service. In that role, we were just providing information. If we could make that information authoritative, they could use it.

We never got into policy issues. We costed the Afghanistan engagement, a war; we never said we should be in this war. We costed fighter planes; we never said, "You need to buy this fighter plane." We costed crime bills; we never said, "You need to be tough on crime." We said, "Here's the fiscal cost if you do that. In fact, here's a range of costs."

So in that sense we never felt that we crossed the line where we want parliamentarians or political leaders to set those priorities, set this policy, deal with the policy issues. We just said, "If you go down this path, here's some authoritative analysis on what the cost could be."

For the most part, we stayed away from the discussion around benefits, which is also in your legislation, because we thought that would be partisan. So we stayed within a pretty narrow sandbox.

Ms. Dipika Damerla: I'm going to pass it over to Ms. Mangat.

The Chair (Mr. Garfield Dunlop): Mrs. Mangat, MPP.

Mrs. Amrit Mangat: Thanks, Kevin, for sharing your thoughts. My question is: Based on your experience, what are the best mechanisms you would suggest for releasing annual reports?

Mr. Kevin Page: To me, just maybe perhaps some clarification: By an annual report, do you mean a year-end report where basically the Financial Accountability Officer says, "Here's how I spent your resources. Here are the projects I worked on. Here's my sense of performance"? Or, ma'am, are you referring to more individual reports that will get released in the course of the year? Just some clarification.

Mrs. Amrit Mangat: Do you have any suggestions how that process can be improved through the legislation?

Mr. Kevin Page: I think if it's, again, an annual report, which is more a report—you know, here is the plan of the Financial Accountability Officer; here's the performance of the Financial Accountability Officer. That report should look like any report that would be produced by a provincial department—so in that kind of context. And it should be released in the same way so that there could be scrutiny on the work of the Financial Accountability Office.

If we're talking about reports—economic and fiscal projection reports, reports on costings—that come up, that have been requested from MPs, then I think there is a process that we established, that we borrowed basically from the OECD and the IMF. It starts with developing terms of references with members of Parliament; being very public about the information that we need from government departments so that everybody knows what we're working on; telling people before we release a paper that we will be releasing a paper; working in the meantime with public servants, with other experts across the country or internationally on the project; releasing the report first to parliamentarians, which can include the executive and those not in the executive; and then, if necessary, briefing the media as well so everybody knows and then everybody holds the Financial Accountability Officer responsible and accountable.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Garfield Dunlop): Mr. Grant Crack.

Mr. Grant Crack: Thank you, Mr. Chair. Welcome, Mr. Page. My question is probably pretty simple. I imagine you had worked on a number of reports over your term, and I'm just wondering if you could provide us some examples of some of the reports, perhaps, that you did provide and which one would be your favourite as far as personal satisfaction in bringing some of the information forward.

Mr. Kevin Page: Actually, that's a tough question. I would probably make a lot of people I work with very closely very angry if I pick one and not another.

We always felt, particularly when you're starting a new office, that every project was really important. We

could almost make or break on the quality of that project. We couldn't have a bad project. That's one of the reasons, sir, that we had things like peer reviews. Before we release a product to members of Parliament—I think this is a good practice for the Financial Accountability Officer—get it reviewed by experts within the province, outside the province, so that we could release it.

I felt very proud from our very first project, where we costed Canada's engagement in Afghanistan. We were able to look at: What were the costs over a long period of time in having boots on the ground? What were the costs to capital, because capital was going to depreciate? What were the monies that we spent in development? Providing this whole big picture, right to my last report, where we looked at the criminal justice system: What were the costs overall of the system? How did federal costs compare with provincial costs? If we changed legislation, how did those impacts flow down on the provinces as well, too?

They all seemed very important to me. But again, some best practices like peer review could help the Financial Accountability Officer a long way.

The Chair (Mr. Garfield Dunlop): You've still got a minute.

Mr. Grant Crack: Okay. You talked specifically, Mr. Page, about Afghanistan. Could you give us some other examples of some of the other work that you took up?

Mr. Kevin Page: Absolutely. We built within our very first year a capacity to do independent economic and fiscal projections. I had two people in my shop who ran forecasting out of the Department of Finance. We actually worked with a company from Toronto using a model to produce economic forecasts that were different than the government fiscal forecast.

We were able to provide analysis to members of Parliament on that: Is the deficit cyclical or structural? We were able to impart analysis to parliamentarians around the range of certainty you could have around our projections of nominal GDP or budgetary balance. We were able to do projections, what we called stress tests, on the fiscal framework: Do we have a fiscal gap at the federal level? Do they have a fiscal gap on long-term sustainability, a fiscal gap at the provincial level?

When you're making decisions about changing the Canada Health Transfer, which will impact on the provinces, what's that impact on the provinces in terms of long-term sustainability? And we did the same thing on old age security.

Again, we costed fighter planes. We costed crime bills. We costed private members' bills. We costed ships. We had a full range of products over that period. We built databases so that parliamentarians could track, on a quarterly basis, spending on a program activity basis relative to the authorities that they were providing.

I could go on, and again, this was built with a team of about a dozen people, almost always using students from the province of Ontario who were very engaged. We put our names on the products, and we put the names of the people who peer-reviewed it on the product, and when

people called, like yourselves today, we appeared in front of them. We weren't shy about doing that, so that you could hold me accountable and hold me responsible for the work. It's very honourable work.

Mr. Grant Crack: Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Page. That concludes the time for the Liberal Party.

Mr. John O'Toole: Chair, can I ask a question? I have a question for the committee here. What was the total budget cost for his department in Ottawa? That's a simple question.

The Chair (Mr. Garfield Dunlop): We've already concluded the timing at this point.

Interjections.

The Chair (Mr. Garfield Dunlop): Okay, we can find that out for the third reading.

Okay, so, as it is right now, to the committee: The meeting scheduled for this afternoon has been cancelled because of a lack of participants, but all of the amendments to Bill 95 have to be in by 5 p.m. on the 24th, next Tuesday, and we will do clause-by-clause from 1 p.m. to 3 p.m. on the 25th next—

The Clerk pro tem (Ms. Tonia Grannum): Next Wednesday.

The Chair (Mr. Garfield Dunlop): Okay. And Brad Warden is the legislative counsel on Bill 95 if you have drafting questions.

Mr. John O'Toole: Point of order, Chair: I want to table with the committee a report issued by the Ontario

auditor. This was issued in 2011. The report is the Auditor General's Review of the 2011 Pre-Election Report on Ontario's Finances. I would recommend that each member of the committee read it. It's independent. It's forward, not looking retrospectively on the dilemma of the government and the situation.

I believe that what Mr. Page told us today was important: that he's looking forward; the Auditor General can look backwards.

The Chair (Mr. Garfield Dunlop): Okay. So, Mr. O'Toole is tabling that—

Mr. John O'Toole: And I'm tabling this officially, and I'd ask members to read it. We're not just going to rubber-stamp this because it's a time-allocation bill. We're going to actually find out if we're going to create more money, more bureaucracy—

The Chair (Mr. Garfield Dunlop): Okay. That concludes the deputations this morning. I'm going to adjourn the meeting now. The meeting is adjourned. We'll see you next Wednesday at 1 o'clock.

The Clerk pro tem (Ms. Tonia Grannum): At 9 a.m.

The Chair (Mr. Garfield Dunlop): Oh, I'm sorry. It's 9 a.m. next Wednesday.

Mr. Steven Del Duca: At 9 a.m.?

The Chair (Mr. Garfield Dunlop): At 9 a.m. on the 25th. I apologize.

Mr. Steven Del Duca: Okay. Thank you, Chair.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Page, thanks so much today.

The committee adjourned at 0943.

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Wednesday 25 September 2013

Journal des débats (Hansard)

Mercredi 25 septembre 2013

Standing Committee on the Legislative Assembly

Financial Accountability Officer
Act, 2013

Comité permanent de l'Assemblée législative

Loi de 2013 sur le directeur
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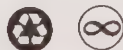
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STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 25 September 2013

Mercredi 25 septembre 2013

*The committee met at 0901 in committee room 1.*FINANCIAL ACCOUNTABILITY
OFFICER ACT, 2013LOI DE 2013 SUR LE DIRECTEUR
DE LA RESPONSABILITÉ FINANCIÈRE

Consideration of the following bill:

Bill 95, An Act to establish a Financial Accountability Officer / Projet de loi 95, Loi créant le poste de directeur de la responsabilité financière.

The Chair (Mr. Garfield Dunlop): Good morning, everybody. We'll call the meeting to order. We're here today on Bill 95, An Act to establish a Financial Accountability Officer.

Today, we have clause-by-clause consideration. The way the motion reads is that we have the opportunity to go between 9 a.m. this morning and 12 noon, and then from 1 o'clock to 5 o'clock this afternoon if, in fact, we need that kind of time.

I'm going to ask each caucus if they'd like to open with an opening—yes?

Mr. Steven Del Duca: Chair, sorry, if I could just request that the committee consider breaking for question period at 10:30 so that members can be in the Legislature, in the House, in the chamber itself for question period today.

The Chair (Mr. Garfield Dunlop): Does anybody have a problem with that? We have a request to recess for question period.

Mr. John O'Toole: Totally.

The Chair (Mr. Garfield Dunlop): Then we'll do that. So that's agreed by everyone?

Mr. Steven Del Duca: Thank you.

The Chair (Mr. Garfield Dunlop): Okay. I wondered if that would come up. We all like to be in question period.

I'd like each caucus to have an opening statement, if they'd like to have the opportunity.

Mr. John O'Toole: Yes, I'm going to start very quickly and just say that we'd like to get this done, clean the deck and get on to serious business.

I also want to recognize my colleague Doug Holyday, who is the accountability critic. I'm his assistant. We're the team to be feared—but we will be moving forward.

The Chair (Mr. Garfield Dunlop): Thank you for your opening statement, Mr. O'Toole. We now go to the third party. Go ahead, Ms. Fife.

Ms. Catherine Fife: Thank you, Chair. We do consider this to be serious business. We consider financial accountability to be pivotal to a successful and responsible government, and that's one of the reasons that we brought forward this idea through last year's budget process.

I'd also, at this point, like to thank the research staff, who are actually here in the room. They've done extensive work and provided a comprehensive briefing on financial accountability and budget officers across the country. We're very fortunate to have this resource at Queen's Park. I think that if you took the time to read through the research, you would see that this is an evidence-based model that actually does work in the best interests of the people of this province, and there isn't a person in the province of Ontario who doesn't understand that a greater level of financial accountability and a forward-thinking financial analysis are needed as policy is developed and as decisions are made through this Legislature.

We're looking forward to a good debate on the Financial Accountability Office, but more importantly, we're concerned with making sure that the integrity of the original act is upheld and that the Financial Accountability Officer has the powers to do what they were originally set out to do, which is ensure and protect the taxpayers and citizens of the province.

The Chair (Mr. Garfield Dunlop): Thank you, Ms. Fife. To the governing party: Mr. Del Duca.

Mr. Steven Del Duca: Thank you very much, Mr. Chair. I listened with interest to both of the members from the opposite parties talking about how they feel about the bill that we are considering today. I think that Ms. Fife is 100% right: This is very serious business. I think Mr. O'Toole is also right in saying that the people of Ontario expect us to roll up our sleeves and get down to the work, to the task at hand that we have in front of us this morning. I know that people in my community of Vaughan are very eager to make sure that this place is operating in the most accountable and transparent way. I think that's why inviting both other parties back in the spring regarding the budget—but working with, of course, the NDP, on this—we saw fit to move forward to bring this measure into the budget itself.

I think we have come up with a proposal that makes a lot of sense and would set a bit of a precedent in terms of what's happening in the provinces. Being the first province to move forward in this direction, we had fantastic questions and answers from Mr. Page last week, and I believe that as we go through the proposed amendments over the course of the hearings today, we will, I'm sure, all work very, very hard in the best interests of trying to pursue that accountability, to make sure that we produce a final product that the people of Ontario deserve. Thank you very much.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Del Duca.

We'll go right into the clause-by-clause considerations. For the first 1 to 9, we have no amendments. Would there be any questions—would you like to go over each one individually, or would you like to do debate? Is there any debate on sections 1 to 9?

Mr. Steven Del Duca: I'd like to go through it.

Interjections.

The Chair (Mr. Garfield Dunlop): Okay. Ms. Fife.

Ms. Catherine Fife: Thank you, Mr. Chair. It's my understanding that there are no amendments from sections 1 to 9, so I would recommend that we just deal with those as a whole, as a package, and then begin with section 10.

The Chair (Mr. Garfield Dunlop): Mr. Del Duca, are you saying that you'd like to vote on each one separately?

Mr. Steven Del Duca: I'd like to vote on each one separately.

The Chair (Mr. Garfield Dunlop): Okay. Because we have that request, we must follow that rule.

Any debate on section 1? All those in favour of section 1? That's carried.

On section 2: Is there any debate on section 2? No debate? All in favour of section 2? It's carried.

On section 3: Are there any questions or any debate on section 3? Mr. O'Toole.

Mr. John O'Toole: On section 3, it talks about the term of office, and I think some of the amendments in the package indicate that the term should be reviewed annually.

The Chair (Mr. Garfield Dunlop): Okay. Any other comments on it? All those in favour of section 3? That's carried.

Section 4: Any questions on section 4? Seeing none, all those in favour of it? It's carried.

Section 5: Any questions on section 5, any questions or debate? Okay, I'd say none—

Mr. John O'Toole: —got into too much of what it was going to cost for this office. We didn't think of it as an amendment, but I suspect in debate, we should know and set a budget. I would assume that in your research or analysis, you've determined—is it \$5 million or is it \$50 million? Do you have any idea? For the record.

Mr. Steven Del Duca: For the record?

Mr. John O'Toole: Yes.

Mr. Steven Del Duca: None. At this point, no.

Mr. John O'Toole: You have no idea what it's going to cost. Okay, very good. But that's the whole point of this—

Interjections.

The Chair (Mr. Garfield Dunlop): Hold on. One at a time.

Mr. John O'Toole: I'd make my argument. This office is to be set up for financial accountability. I think a good foundation for that would be to know what it's going to cost, because we already have an Auditor General—

Mr. Steven Del Duca: I say to the member opposite that this is going to be set by the Board of Internal Economy.

The Chair (Mr. Garfield Dunlop): Ms. Fife, any questions?

Ms. Catherine Fife: I was going to say the same thing. And the member is not proposing an amendment, which is what we're doing; we're doing clause-by-clause right now.

The Chair (Mr. Garfield Dunlop): All right, then. All those in favour of section 5? That's carried.

Section 6: Any questions on section 6? Questions or debate? Seeing none, all those in favour of that? That's carried.

Section 7: Are there any questions or debate on section 7? Seeing none, all in favour? That's carried as well.

Section 8: Are there any questions or debate on section 8? Seeing none, all in favour of section 8? That's carried.

Section 9: Any questions or debate on section 9? Seeing none, all those in favour of section 9? That's carried.

On section 10, we have a number of amendments. The first one would come from the NDP and Ms. Fife.

Ms. Catherine Fife: I move that clause 10(1)(a) of the bill be amended by striking out "provide an independent analysis" at the beginning and substituting "provide, on his or her own initiative, an independent analysis".

The Chair (Mr. Garfield Dunlop): Ms. Fife, would you proceed with any comment?

Ms. Catherine Fife: Okay. This amendment actually ensures that the Financial Accountability Officer can do work on their own initiative. This will also ensure that, just like the Auditor General, the Financial Accountability Office has the freedom to investigate things on their own initiative. And we heard very clearly from Mr. Page last week that autonomy and independence are incredibly important.

0910

The Chair (Mr. Garfield Dunlop): Questions from any of the other caucuses on this?

Mr. John O'Toole: I'll be consistent. I suspect most of this stuff—I cannot disagree with the concept of accountability; it's fundamental to Conservative principles. That being said, we have the opportunity to examine the Auditor General's role and have them look forward—not just do reviews of performance but to look forward—which, by the way, is part of a bill. It's the pre-election—the necessity of the Auditor General to go looking at the

forecasts of revenue and expenditures in advance of an election, which he did in 2011. In that report, he indicated that the then McGuinty and now Wynne government had a structural deficit. They still do. So he's already doing the work. Expanding the terms of reference of the current Auditor General without creating a whole new LHIN—pardon me, Financial Accountability Office, I mean—and layer of bureaucracy is questionable.

It's a coalition between the NDP and the Liberals in the budget. We understand that, and we're being bullied.

The Chair (Mr. Garfield Dunlop): Any questions from the parliamentary assistant on the amendment?

Mr. Steven Del Duca: I'm not quite sure that I understand or accept the premise the member opposite mentions with respect to bullying. I'm not sure that that's really germane to the conversation we're having today. I was sincerely hopeful at the outset of today's committee hearings that we would find a way to work constructively on this, so I'm going to do my best to avoid taking the bait that's being thrown down.

Just out of curiosity—conceptually, I don't think there's an issue with respect to this particular suggested amendment. I'm just wondering if, in terms of the language itself, this is not a bit redundant. Just so I can understand from Ms. Fife if it's just because you want to make sure it's very clearly understood?

The Chair (Mr. Garfield Dunlop): Go ahead, Ms. Fife.

Ms. Catherine Fife: For us, this is just an issue of clarity. You're hearing some noise about people being confused about the role of the officer. For us, this very clearly sets out that there is a level of autonomy and independence on the part of the Financial Accountability Officer. The research actually supports the amendment as well. It's not redundant; it's just clear.

Mr. Steven Del Duca: Thanks very much.

The Chair (Mr. Garfield Dunlop): Okay. Are there any further questions? Because I'm going to call the vote on the amendment, then.

Those in favour of the amendment made by Ms. Fife? Those opposed? The amendment is carried.

The second amendment, number 2: This is a PC motion. Mr. O'Toole.

Mr. John O'Toole: Yes, thank you. A motion to the committee:

I move that subclause 10(1)(b)(i) of the bill be amended by adding at the end "and make recommendations to the assembly concerning where the government and the Lieutenant Governor in Council can reduce spending".

The Chair (Mr. Garfield Dunlop): Any explanation at all on that?

Mr. John O'Toole: It's a friendly amendment.

The Chair (Mr. Garfield Dunlop): A friendly amendment. Ms. Fife?

Ms. Catherine Fife: It's actually not that friendly. We oppose this amendment. This would actually ask the Financial Accountability Office to make specific policy recommendations. We do not want the Financial Accountability Office to have any partisanship. The role of

the FAO is to provide information about financial costs or financial benefits. This is redundant. If the PCs want the FAO to examine cost savings, then they can propose this and the FAO could examine their proposals. Certainly the FAO can examine proposals by any MPP, as the legislation clearly runs out.

It's redundant, and it's already in the mandate of the Financial Accountability Office. Just to review, the FAO is to provide information about financial costs or financial benefits. It is up to politicians, MPPs, to use that information to propose policy. So there's a very clear distinction here, Mr. Chair.

The Chair (Mr. Garfield Dunlop): Any questions from the—Mr. Del Duca?

Mr. Steven Del Duca: To echo some of the comments that we've heard from Ms. Fife around this, I want to believe that this is coming from a place of goodness on the part of the PC caucus in terms of wanting to further the discussion and debate. I think that, unfortunately, perhaps inadvertently, Ms. Fife is correct. What this would actually end up doing is taking a position that is designed to provide analysis and take the scope of the position far outside what's contemplated and what takes place in other jurisdictions where this kind of position exists, because it would essentially transform the Financial Accountability Officer into a policy-maker, as Ms. Fife said, which is really the role of those of us who are sitting around this committee table and not the role of someone who is designed and given the mandate to review, analyze and provide advice back. So I think this is inconsistent with what existed, with respect to the Parliamentary Budget Officer in Ottawa, and it's also inconsistent with what we see in other places like, for example, Australia. It goes beyond, as I said earlier, what was contemplated for the position, and it's unnecessary.

I don't think anyone here, even if it's for the best of intentions, would want to inadvertently usurp the role of policy-makers—those of us who have that direct link back to our communities by being elected—and vest the policy-making abilities or powers in someone who is supposed to have that independent analysis and research, and provide advice back to folks. So I would agree with Ms. Fife on this one, and we will be moving from there.

The Chair (Mr. Garfield Dunlop): Mr. O'Toole.

Mr. John O'Toole: If I may, I thought this was quite friendly—just that there was the opportunity by the proposed officer of the Legislature to bring forward recommendations. I'll give you a good example. In Ottawa, the budget officer, during the discussion on the F-35, was actually leading the policy discussion. In fact, he was using different risk assessment models etc. to look at the cost of servicing the F-35 and all that. I followed that very closely, and I thought he was trying to get rid of Peter MacKay, basically.

This is what I'm saying: I don't want the officer to not have the authority to look beyond sort of a framed mandate, if we're going to have one. It's really going to be independent and be able to look at the past, the present and the future. When you're doing that, you are bumping

into Premier Wynne in terms of, you're spending too much on new drugs, because I have constituents of mine that don't have access because she won't approve drugs that are approved by Canada. They're going to die. Those people are going to die of IPF, idiopathic pulmonary fibrosis. They were here; they had a protest. Why wouldn't the Auditor General, if I inquired—why aren't they funding that medication? He could then—anyway. Do you see my point?

I'm surprised and disappointed that you're already putting controls on this proposed officer. There you go. The coalition is in force, and they want to increase spending at every opportunity.

The Chair (Mr. Garfield Dunlop): Okay. Ms. Forster?

Ms. Cindy Forster: I'd like to call the question.

The Chair (Mr. Garfield Dunlop): Any other comments—sorry, we have to call the question.

Mr. Steven Del Duca: I'd like to make a request for a 20-minute recess, Mr. Chair.

Mr. John O'Toole: I'd like to record the vote on this.

The Chair (Mr. Garfield Dunlop): We're recessed for 20 minutes.

The committee recessed from 0919 to 0939.

The Chair (Mr. Garfield Dunlop): I'll call the meeting back to order. We left with the PC motion, a request for a recorded vote on motion number 2, so I'm going to call that motion.

Those in favour of motion number 2?

Ayes

Holyday, O'Toole.

Nays

Balkissoon, Crack, Del Duca, Dhillon, Fife, Forster.

The Chair (Mr. Garfield Dunlop): That motion is defeated.

We'll now go to the third motion, ladies and gentlemen, and that's an NDP motion. Ms. Fife.

Ms. Catherine Fife: I move that subclauses 10(1)(b)(iii) and (iv) of the bill be amended by striking out "financial costs or benefits" wherever it appears and substituting in each case "financial costs or financial benefits".

This makes the English consistent with the French version. It clarifies that the role of the FAO is to provide quantitative cost information.

The Chair (Mr. Garfield Dunlop): Any questions from the parliamentary assistant?

Mr. Steven Del Duca: No questions from the member opposite. I think this amendment does provide the consistency she referenced a second ago, and I think that's in keeping with moving this forward in the right direction.

The Chair (Mr. Garfield Dunlop): Mr. O'Toole or anybody in the third party? Okay. I'm going to call the vote. Those in favour of it? That's carried.

We now have government motion number 4, but I believe it's the same—

Mr. Steven Del Duca: We can withdraw that.

The Chair (Mr. Garfield Dunlop): So number 4 has been withdrawn?

Mr. Steven Del Duca: Yes.

The Chair (Mr. Garfield Dunlop): The fifth one is a PC motion. Mr. O'Toole.

Mr. John O'Toole: I move that clause 10(1)(b) of the bill be amended by adding the following subclause:

"(v) undertake research and conduct a cost-benefit analysis of any proposed contracts or wage deals to be entered into by the government, or any proposed grants or loans to be given to private corporations by the government or by a government agency."

The Chair (Mr. Garfield Dunlop): Mr. O'Toole, would you like to—

Mr. John O'Toole: Yes. Well, it's pretty evident that what we're trying to do here is have them, in the accountability framework, make public the cost of the implementation of a program, across-the-board wage increase or bonus system, which, I think, seems appropriate for this role—also, giving out money to the southwestern Ontario and southeastern Ontario economic development funds. I think that those are just transparency requests, and I would humbly ask for your support.

The Chair (Mr. Garfield Dunlop): Ms. Fife?

Ms. Catherine Fife: Chair, we're opposed to this amendment. We feel that it's redundant. There is nothing stopping the Financial Accountability Officer from doing this. If the member from the PC Party would look at the mandate as it's spelled out in the bill, it's already consistent. While we do share some concerns around how the money from the southwest development fund is being distributed, currently, as the legislation is written and crafted, the FAO would have the right, based on any member coming forward and requesting clarification and a financial analysis. The amendment, as proposed by the PCs, is redundant.

The Chair (Mr. Garfield Dunlop): Okay. Anybody from the government? Mr. Del Duca?

Mr. Steven Del Duca: Ms. Fife keeps beating me to the punch on some of this stuff so far this morning. To reinforce what was said, I think the idea or the concept put forward that this is a bit redundant is accurate and valid. I think, beyond that, there may also be concerns with the way this amendment is specifically written that may affect issues relating to commercial sensitivity and issues related to the sanctity of the collective bargaining process.

There's a whole series of issues that theoretically, depending on how this might be interpreted if it were to be included in this legislation going forward, could cause perhaps unforeseen challenges or dilemmas as we go forward on this. That, combined with the fact that it is redundant—because we believe there is enough substance in the proposed legislation to provide the degree of accountability that the PC members are looking for on these kinds of issues without taking this particular

approach, which, as I said a second ago, may inadvertently cause more problems than it might actually solve.

The Chair (Mr. Garfield Dunlop): Mr. Holyday, then Ms. Fife.

Mr. Douglas C. Holyday: I think that if you look at this, you might conclude, by the logic used by the government and the third party, that the whole thing could be redundant. Really, the accountability lies with the MPPs themselves, I'd say, and then there are already systems in place that look after accountability. But it seems that, for some reason, things have gone so far wrong here that we need to have even more accountability.

I don't see anything wrong with trying to take this as far as we can take it. To say that it's redundant—I think perhaps the whole thing could be redundant.

The Chair (Mr. Garfield Dunlop): Ms. Fife?

Ms. Catherine Fife: Call the question.

Mr. John O'Toole: Recorded vote.

Mr. Steven Del Duca: I'd like to request a recess before the vote.

The Chair (Mr. Garfield Dunlop): Is there no further debate other than the recorded vote request right now?

Mr. Steven Del Duca: I'd like to actually request a recess, please.

The Chair (Mr. Garfield Dunlop): A request for a recess?

Mr. Steven Del Duca: Yes, please.

The Clerk of the Committee (Mr. Trevor Day): Before the vote.

Mr. Steven Del Duca: Before the vote now, right. Yes. Sorry, I thought the question was being called.

Ms. Catherine Fife: I called the question.

Interjections.

Mr. John O'Toole: Here's how I understand it: For the record, this committee is charged with—by a management motion, whatever you call that—it's time-allocated, more or less. As such, because it's timed and there are two hours of debate when it goes back to the House, it's going to go back tomorrow, which is going to put private members' business after 6 o'clock.

The Chair (Mr. Garfield Dunlop): Okay—

Mr. John O'Toole: Now, look, I'm telling you, you're going to win all the votes; I understand that part. Do you understand?

The Chair (Mr. Garfield Dunlop): Okay, I think—

Mr. John O'Toole: If you're doing recesses, I want an explanation. It's a delay mechanism by the government itself.

The Chair (Mr. Garfield Dunlop): Mr. O'Toole, he has the right.

Mr. John O'Toole: I know he has the right. So did I.

The Chair (Mr. Garfield Dunlop): Are you asking for a recorded vote when we come back? Okay. So we've asked for a recorded vote. We're going to recess for 20 minutes.

Interjection.

The Chair (Mr. Garfield Dunlop): Further debate? Sorry.

Ms. Catherine Fife: Further debate. Mr. Chair, this is clearly just an effort to delay the FAO.

I'm referring to your efforts to filibuster the debate of this committee. I'm not sure why you are being so flip-pant about the nature of the work that's before us. The people of the province of Ontario expect us to put their needs first, not the needs of our individual parties. So the games that are being played right here, right now, are completely unacceptable.

The Chair (Mr. Garfield Dunlop): Any further debate after that? Okay; we're recessed for 20 minutes.

The committee recessed from 0946 to 1004.

The Chair (Mr. Garfield Dunlop): I'll call the meeting back. We'll now have the recorded vote on the PC motion.

Ayes

Holyday, O'Toole.

Nays

Balkissoon, Crack, Del Duca, Dhillon, Fife, Forster.

The Chair (Mr. Garfield Dunlop): That motion fails. We'll now go to the next PC motion, number 6.

Mr. John O'Toole: I move that clause 10(1)(b) of the bill be amended by adding the following subclause:

"(vi) undertake research and make recommendations to the assembly concerning where the government and the Lieutenant Governor in Council can reduce spending."

The Chair (Mr. Garfield Dunlop): Explanation at all?

Mr. John O'Toole: It's self-explanatory: encouraging the role of the new officer of the Legislature to make recommendations with respect to spending choices.

The Chair (Mr. Garfield Dunlop): Ms. Fife.

Ms. Catherine Fife: The FAO can already examine proposals by any MPP. This amendment is, again, redundant and it's already in the mandate of the office.

The Chair (Mr. Garfield Dunlop): Any questions from the—Mr. Del Duca?

Mr. Steven Del Duca: From my perspective, from our perspective, taking a look at this particular proposed amendment, I think part of the concern is in keeping with what I said a little bit earlier regarding another PC-proposed amendment in that this strikes me as moving beyond the role of providing advice and starts to potentially move into the world of policy-making, that responsibility that falls to members of the Legislature—and a concept that isn't really in keeping with what this particular position is supposed to provide, again, when taking a look at what exists with respect to the Parliamentary Budget Officer in Ottawa, what exists with other jurisdictions.

From my perspective, this moves beyond the scope of what we are trying to propose, the concept of what we're trying to propose, and it's not necessary in order for the Financial Accountability Officer to conduct his or her

responsibilities and fulfill his or her mandate in order to make sure that the level of accountability the people of Ontario deserve is provided.

Mr. John O'Toole: Recorded vote.

The Chair (Mr. Garfield Dunlop): Any further debate? Recorded vote.

Ayes

Holyday, O'Toole.

Nays

Balkissoon, Crack, Del Duca, Dhillon, Fife, Forster.

The Chair (Mr. Garfield Dunlop): That motion does not carry.

We'll now go to the next motion by the New Democratic Party. Ms. Fife.

Ms. Catherine Fife: I move that subsection 10(3) of the bill be struck out.

This is housekeeping. It removes 10(3). Refusal of request is already addressed in subsection 10(2).

The Chair (Mr. Garfield Dunlop): Any further comments on that, Ms. Fife? Any other comments on this one? I'm going to call the vote on this, then. All those in favour of it? It's carried.

That comes to the end of number 10. Shall section 10, as amended, carry? All those in favour? It's carried.

We'll now go to section 11. Any questions or debate on section 11? All those in favour of it? Carried.

Section 12: We have amendment 8 by the NDP. Ms. Fife.

Ms. Catherine Fife: I move that subsection 12(1) of the bill be amended by striking out "any financial or economic information" and substituting "any financial, economic or other information".

By way of description, this ensures the FAO will have access to information they need to complete their mandate. In Kevin Page's memo, on page 5, it outlines instances where the Parliamentary Budget Officer needed access to information that was not specifically financial or economic in order to meet their mandate. For example, in assessing F-35 fighter jets, the PBO required information that was not financial in order to complete its financial assessment—for example, plane requirements or production schedules or specifications. The FAO may need information that isn't specifically financial in order to do their job. This makes sure that the FAO can do their job.

I believe, actually, that the PCs, in their previous comments, have concerns about them having access. This amendment would ensure that the FAO has all the information to provide an accurate, forward-thinking fiscal assessment of any projects going forward.

The Chair (Mr. Garfield Dunlop): Any questions from anybody else? Mr. Del Duca.

Mr. Steven Del Duca: I think I do understand where the NDP is coming from on this one but I'm not sure that

I am necessarily in complete agreement. When I think about what sort of underpinning or the very foundation of what we are trying to accomplish with the creation of this position, adding in the word "other" and broadening the scope to include anything that could fall under that, again, kind of takes away from the primary focus of what this position is supposed to be accomplishing on the part of the people of Ontario. I think it's a very, very broad kind of sweeping thing to include. I think that the financial and economic analysis is exactly what this position is supposed to be doing. I'm not sure that I completely understand.

Maybe Ms. Fife can elaborate just a little bit with respect to exactly why we need to broaden it this way so I'm clear.

1010

The Chair (Mr. Garfield Dunlop): I'll let her elaborate first and then we'll go to the—

Mr. Steven Del Duca: Of course.

Interjection.

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. John O'Toole: I had my hand up—

The Chair (Mr. Garfield Dunlop): Ms. Fife did as well.

Mr. Steven Del Duca: I was just curious—

The Chair (Mr. Garfield Dunlop): No, I just want her to answer that question and then I'll go over to you, Mr. O'Toole.

Ms. Catherine Fife: I think, just to be clear, we don't want to tie the hands of the Financial Accountability Officer in any way. As my esteemed colleagues Mr. O'Toole and Mr. Holyday have already mentioned, the FAO needs access to any and all information in order to provide accurate physical assessments or economic projections. We want the FAO to have broad access. The mandate is still very clear about what they can provide information on, and that direction actually comes from individual MPPs.

So for us this is important because we know from previous experience that Mr. Page, at the federal level, ran into roadblock after roadblock in trying to access accurate information to actually do his job. We feel that this doesn't overstep any boundaries or any powers that we have. It simply gives the Financial Accountability Officer the mandate to look outside of just the numbers. And we heard that very clearly from Mr. Page when we asked him.

Mr. Steven Del Duca: Yes, we did. But if I can just—sorry, I don't mean to preclude Mr. O'Toole from speaking, but I just had one—

The Chair (Mr. Garfield Dunlop): Go ahead, and then I'll go to Mr. O'Toole.

Mr. Steven Del Duca: When Mr. Page was talking to the committee about the concerns that he had—and I think a lot of us do understand the challenges he faced in trying to execute his role. But when he felt that he was challenged or when he felt that there was an obstacle in his way, it was my impression that it was an obstacle or a challenge with respect to accessing financial and eco-

conomic information—not financial, economic and other information. I didn't have the impression—and certainly watching his career while he grappled with the federal Conservative government in Ottawa unfortunately many, many, many times—that he was looking for information that wasn't relevant to both financial and economic matters. So I'm just not 100% sure—

Ms. Catherine Fife: I can give you an example.

Mr. Steven Del Duca: Sure, that would be great.

Ms. Catherine Fife: Mr. Page, in his deputation and in his report, cited that as he was trying to—

Interjection.

Ms. Catherine Fife: Can I—

The Chair (Mr. Garfield Dunlop): Go ahead. Go ahead—

Ms. Catherine Fife: When he was trying to—

Interjection.

The Chair (Mr. Garfield Dunlop): No, wait. Let her finish up, and then you'll go. I'm just trying to get this one clarification between—

Mr. Steven Del Duca: Sorry; my apologies.

Ms. Catherine Fife: When he was trying to give a financial assessment specific to the F-35, he was looking for information around plane requirements, he was looking for information around production schedules, he was looking for specifications that were in line with the engineering of the jets in order to give an accurate financial assessment, and he was blocked almost on every front. This is an example of why we should craft legislation that doesn't inhibit the financial assessment. That's the example of the F-35s.

The Chair (Mr. Garfield Dunlop): Mr. O'Toole.

Mr. John O'Toole: I find it surprising but I do agree with the amendment because it reminds me, with these two chattering back and forth—what it reminds of is exactly the questions either by Mr. Bisson or Mr. Wilson in the House on the gas plants, and the manipulation by the Premier saying that all of the access on the information on the gas plants was available to the committee, and the House leader denying it's not within the scope. In that respect, the current information is such that that committee cannot get to the information, and they have been charged by the Legislature to find the truth.

I am in agreement with the motive here. I find that the government is in a position here—while talking about Mr. Page deflecting it to Stephen Harper's government, they should look internally to see how manipulative they are on Ornge, on the gas plants, on eHealth, on almost everything in this House, you can't find out—and there's not one answer that I ever hear that answers the question—on drug access, on access to information in the simplest forms.

So I think to take a lecture from the parliamentary assistant almost makes the hair on my neck stand up. Look, you can't have it both ways. You agreed with this. This is a collusion of the two of you looking for accountability, and it's anything but accountability. And if you want to chatter back and forth, I'll filibuster for the whole day. I'm not threatening; I'm saying that I find what

you're talking about is duplicitous. You're not agreeing with her that all the information should be available to the officer of the Legislature. That's what you said.

I will be supporting it, and I call the vote.

The Chair (Mr. Garfield Dunlop): Any further debate?

Mr. Steven Del Duca: I'm a little bit taken aback, I suppose, but I'm fairly thick-skinned, so I'm not quite sure references to hair on the back of one's neck, speaking as someone who's follicularly challenged—I'm not quite sure if that was a personal shot or not. I'm sure it wasn't.

Mr. John O'Toole: Well, it was.

Mr. Steven Del Duca: I'm just joking. I'm sure it wasn't.

I'm just asking. I wanted a clarification regarding exactly what the NDP was looking for with respect to this. I don't think there's anything wrong with asking for clarification. I don't think it's trying to be obstructionist or trying to be difficult. I listened with great interest to Mr. Page's testimony and commentary just a few days ago, as we all did.

I think we want to make sure that, whoever ends up taking on this role in an attempt to provide that level of accountability that you and the PC caucus do a great job—quite the theatrical job—of talking about frequently, we're vesting this power and this mandate in an individual who understands that if you're going to search for information, as Ms. Fife mentioned, like the stuff around fighter jets that Kevin Page had to go look for, it at least ties back and is relevant to the financial and economic analysis.

This is not a Financial Accountability Office that's being given a mandate to determine something that falls well beyond the scope of financial or economic information. I just wanted to make sure I had a clear understanding that it was at least, in some way, shape or form, tied back to the level of accountability that we are trying to provide to the people of Ontario that has been so missing in what's taken place with our federal Conservative government over the last number of years, and the same accountability that was completely absent the last time the Conservatives were in power here at Queen's Park, which is why we had problems with the sale of the 407 and a whole host of other really unfortunate scandals that still plague the people of Ontario today.

Having said that, I'd be happy to consider the question now.

The Chair (Mr. Garfield Dunlop): Any further debate on this? All those in favour of this motion? Those opposed? The motion carries.

We've got about another seven minutes. We'll go till 10:25.

The next motion is a motion by the NDP.

Ms. Catherine Fife: I move that subsection 12(3) of the bill be amended by striking out "financial or economic" in the portion before paragraph 1 and substituting "any information".

In many respects, this is housekeeping. It ensures consistency with amendment 8. This makes sure that the FAO can do its job. The FAO may need information that isn't specifically financial. This is something former Parliamentary Budget Officer Kevin Page explained to this committee was important if the FAO is going to do its job effectively.

The Chair (Mr. Garfield Dunlop): Further questions on it? All those in favour of the amendment? The amendment carries.

We'll now go to the next amendment by the PCs. Mr. O'Toole.

Mr. John O'Toole: I move that section 12 of the bill be amended by adding the following subsection:

"Notice re failure to comply with subs. (1)

"(3.1) The Financial Accountability Officer may notify the Speaker of the assembly and the Chair of the Standing Committee on Finance and Economic Affairs if the Financial Accountability Officer is of the opinion that a ministry or a public entity has failed to comply with a request under subsection (1)."

The Chair (Mr. Garfield Dunlop): Any explanation, Mr. O'Toole?

Mr. John O'Toole: No. I think this amendment is self-explanatory, if one reviews subsection 12(3.1).

The Chair (Mr. Garfield Dunlop): Any questions? Ms. Fife.

Ms. Catherine Fife: We'll be supporting the amendment. We concur with the intent of it in that this would ensure that members of the assembly are made aware of any attempt by the government or other entities to stymie or block the work of the FAO. The bill is clear that the government has to co-operate with the Financial Accountability Officer. If they don't co-operate, MPPs and the public need to know. So we're in complete agreement.

The Chair (Mr. Garfield Dunlop): Mr. Del Duca? Okay.

Those in favour of this motion? The motion carries.

That's section—

Interjection.

The Chair (Mr. Garfield Dunlop): There's one more NDP motion; I apologize. Yes, go ahead.

1020

Ms. Catherine Fife: I move that section 12 of the bill be amended by adding the following subsection:

"Same, redaction of information

"(3.1) For greater certainty, before giving information to the Financial Accountability Officer, a ministry or public entity shall take reasonable steps to redact personal information and personal health information."

By way of a description, in its current wording there are strong protections of personal and personal health information. However, this shouldn't stand in the way of the FAO getting information from which the personal information has been removed.

In the experience of Ottawa's PBO, ministries have used any personal information as a reason to not provide records. It's essential that we protect people's privacy. At the same time, this will ensure that personal information

is kept private but ensures that the FAO receives all other relevant information.

We're looking for support.

The Chair (Mr. Garfield Dunlop): You want to call the question, then? All those in favour of it? That carries.

Shall section 12, as amended, carry? That's carried.

Mr. John O'Toole: I would bundle 13, 14 and 15.

The Chair (Mr. Garfield Dunlop): Mr. O'Toole has moved we bundle 13, 14, 15—and 16.

Mr. John O'Toole: We have an amendment on 16.

The Clerk of the Committee (Mr. Trevor Day): Section 16.1 is a different section of the act.

Mr. John O'Toole: Okay. Section 16 then.

The Chair (Mr. Garfield Dunlop): Is that okay with everyone?

Mr. Steven Del Duca: That's fine.

The Chair (Mr. Garfield Dunlop): Okay. Shall sections 13 to 16 carry? Carried.

Section 16.1.

Mr. John O'Toole: Yes, this is a new section really.

I move that the bill be amended by adding the following section:

"Annual review of act, etc. by standing committee

"16.1(1) Every year, the Standing Committee on Finance and Economic Affairs shall conduct a review of this act and the legislative needs of the Financial Accountability Officer, with the first review to begin no later than the first anniversary of the date on which this act received royal assent.

"Same

"(2) The committee shall hear the opinions of the Financial Accountability Officer, of members of the assembly and of any other persons the committee considers appropriate.

"Report to assembly

"(3) The committee shall report the results of its review and its observations, opinions and recommendations to the assembly."

The Chair (Mr. Garfield Dunlop): Questions on that? Ms. Fife.

Ms. Catherine Fife: We're opposed to this amendment. In the current legislation the FAO can table an annual report and set out any issues they may have. There's no annual review of the legislation overseeing the Auditor General or the Ombudsman. If the FAO has issues, the annual report which reports on the work of his or her office creates an opportunity to report any issues that they have. So this amendment, in our opinion, is redundant.

The Chair (Mr. Garfield Dunlop): Mr. Del Duca?

Mr. Steven Del Duca: No comments.

Mr. John O'Toole: Very quickly: At one time, there was such a review of the Ombudsman's office. I had the privilege—I think in 1997 or something—of chairing a committee which eventually reduced and eliminated and struck further independence of the Ombudsman. So this is a new piece, a new office. Whether it's the LHINs or all these new bureaucracies they've formed, I think it's an appropriate review—certainly in the first year—to put

it on the books as a necessary way of doing business. It's part of accountability, and that's why it's moved.

The Chair (Mr. Garfield Dunlop): Further questions?

Mr. John O'Toole: Recorded vote.

The Chair (Mr. Garfield Dunlop): Okay.

Interjection.

The Chair (Mr. Garfield Dunlop): I'm sorry. Mr. Holyday; I apologize.

Mr. Douglas C. Holyday: The final act of accountability is always in the hands of the MPPs, and if the officer decides that they don't wish to report out or make some changes and they don't ever come forward with it, then the MPPs don't get to make the decision. So if you want to have the opportunity to make the decision, as you should have, then you have to have something in place that calls for this report. If it's mandated that it be brought forward, whatever action comes from that will be dealt with. But if the MPPs who have the final say don't ever get anything before them, they'll never make the decision.

The Chair (Mr. Garfield Dunlop): Further questions?

Shall section 16.1 carry?

Ayes

Holyday, O'Toole.

Nays

Balkissoon, Crack, Del Duca, Dhillon, Fife, Forster.

The Chair (Mr. Garfield Dunlop): Section 16.1 does not carry.

Section 17: a new PC section.

Mr. John O'Toole: Section 17—

The Clerk of the Committee (Mr. Trevor Day): Do 17; then we'll do the amendment.

The Chair (Mr. Garfield Dunlop): I apologize.

Mr. John O'Toole: All right. This is the amendment.

The Chair (Mr. Garfield Dunlop): Shall section 17 carry? It's carried? Okay.

Ms. Cindy Forster: I thought it was section 16.

Mr. John O'Toole: No, no; it's all done.

Interjections.

The Chair (Mr. Garfield Dunlop): Section 17 is carried, yes.

Interjection.

The Chair (Mr. Garfield Dunlop): Section 17.1 separately, yes. We did 16 and 16.1 separately.

Interjections.

The Chair (Mr. Garfield Dunlop): Just a second, everyone. I apologize, Mr. O'Toole. The bells are starting to ring for question period.

Mr. Steven Del Duca: It's the final amendment.

The Chair (Mr. Garfield Dunlop): Final amendment, then. Okay.

Mr. John O'Toole: I move that the bill be amended by adding the following section:

"Notice re obstruction by a member of the assembly, etc.

"17.1 The Financial Accountability Officer may notify the Speaker of the assembly if the Financial Accountability Officer is of the opinion that a member of the assembly or their staff has interfered with or obstructed, or has attempted to interfere with or obstruct, the Financial Accountability Officer in the performance of his or her duties."

It's self-explanatory. It should be independent and beyond any question that they can't be intimidated, as has recently been the case with our Speaker.

The Chair (Mr. Garfield Dunlop): Further debate?

Those in favour of this motion? That's carried.

We'll put 18 and 19 together. Shall sections 18 and 19 carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Thank you very much. Carried, everybody.

We're recessed till next week.

The committee adjourned at 1027.

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Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Wednesday 2 October 2013

Journal des débats (Hansard)

Mercredi 2 octobre 2013

Standing Committee on the Legislative Assembly

Regulated Health
Professions Amendment Act
(Spousal Exception), 2013

Comité permanent de l'Assemblée législative

Loi de 2013 modifiant la Loi
sur les professions
de la santé réglementées
(exception relative au conjoint)

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 2 October 2013

Mercredi 2 octobre 2013

*The committee met at 1301 in committee room 1.*REGULATED HEALTH
PROFESSIONS AMENDMENT ACT
(SPOUSAL EXCEPTION), 2013
LOI DE 2013 MODIFIANT LA LOI
SUR LES PROFESSIONS
DE LA SANTÉ RÉGLEMENTÉES
(EXCEPTION RELATIVE AU CONJOINT)

Consideration of the following bill:

Bill 70, An Act to amend the Regulated Health Professions Act, 1991 / Projet de loi 70, Loi modifiant la Loi de 1991 sur les professions de la santé réglementées.

The Chair (Mr. Garfield Dunlop): I know we have enough members of the committee here for quorum, so we will start. We're here for the committee hearings of the Standing Committee on the Legislative Assembly for Bill 70, An Act to amend the Regulated Health Professions Act, 1991.

Mr. Steve Clark: Chair, just before we start, I know that perhaps Ms. Gélinas and Ms. Forster don't agree, and I haven't discussed this with the government members, but I just wanted it to be known on the record that I would be quite prepared to move forward with clause-by-clause today, even though that isn't what the committee decided by motion. I just wanted to make that statement. I don't think the two ladies to my left agree with me, but I just wanted people to know my intentions, that I would have been ready to move forward today.

The Chair (Mr. Garfield Dunlop): I can assure you, Mr. Clark, we are on a very tight time frame and I think it's going to be very difficult to get to clause-by-clause today. We have eight deputations; they have 15 minutes each. Each presenter or deputant has five minutes for their presentation. Then we move to each caucus and they have three minutes to ask you questions on your deputation.

DR. RICK CALDWELL

The Chair (Mr. Garfield Dunlop): With that, I'd like to start. I'll start with Mr. Rick Caldwell. If you could come forward, please, Rick—Mr. Caldwell, I should say. I will give you a warning when it's 30 seconds, okay? Please proceed.

Dr. Rick Caldwell: Members of the Standing Committee on the Legislative Assembly, thank you for allowing me to address you today and share my story.

As you know from your agenda, I am Dr. Rick Caldwell, president of the Ontario Dental Association. What you may not know, however, is that I spent my first two years as a dentist in communities in the north, such as Moose Factory, Moosonee, Fort Albany, Kashechewan, Attawapiskat, Winisk and Peawanuck. After moving from Moose Factory, I continued to serve the village of Peawanuck on a locum basis for another 20 years.

I have always said that I began my career up there serving that specific population and might like to end my career in the same place, serving a First Nations population. That time in my career is approaching and now my wife and I can't even consider moving back into these communities for one reason. That is the unfairness with which we are treated under the current RHPA.

You see, my wife is a pharmacist and she, too, is subject to the RHPA and the existing legislation. Where we currently live, in New Liskeard, we have colleagues who are able to serve our respective professional needs. However, if I were to move to a remote community, I would worry that I would be the only dentist and she the only pharmacist. I guess you can see where the conundrum comes in.

But who really loses out in this scenario? It's really the people who live in a remote community. The opportunity to attract a couple to such a location, both health care professionals, no longer exists under the current legislation. This kind of discrimination against northerners is not fair nor reasonable.

At the individual level, this law not only discriminates against spouses because it prevents them from being able to choose the dentist of their choice, but also greatly discriminates against those of us in the north who have spouses who may have to travel for hours to seek dental treatment. It doesn't seem right when I'm the one putting her on an airplane or sitting in the driver's seat taking her to another dentist, does it?

I understand that this law may not be suitable to those who engage in psychotherapeutic practice, but I urge you to consider the position you place our spouses in when they cannot have an X-ray read or their teeth cleaned by the dentist of their choice. Such treatment, as the law is currently interpreted, is deemed sexual abuse. Any reasonable individual would not see reading an X-ray or cleaning a spouse's teeth as sexual abuse.

The penalties for sexual abuse are rightly harsh: a five-year mandatory revocation of a dentist's certificate to practise and a charge of sexual abuse on the public registry. However, when no sexual abuse occurs, such as where a dentist treats a spouse or an optician dispenses a pair of glasses for a spouse, the penalty is excessive.

I speak on behalf of the entire dental community when I say that we firmly believe that instances of sexual abuse, when they exist, should be handled by the Royal College of Dental Surgeons of Ontario. If this law is amended to permit spousal treatment, I have full confidence in our college's ability to continue to do the great work that it does to protect patients, whether or not they are spouses.

The Health Professions Regulatory Advisory Council, or HPRAC, made a sound recommendation to the Minister of Health and Long-Term Care, which is precisely why we are here today.

I know that a few presenters after me are going to oppose this legislation, but I must ask them, why?

Bill 70 in no way diminishes existing public protection measures. Spouses will continue to be afforded the same protections available to all Ontarians concerning sexual abuse. It simply allows for spousal treatment where a college and the provincial government agree it makes sense.

Bill 70 also does what colleges opposed to the changes requested: It does not apply to them automatically. Colleges that determine spousal treatment is appropriate to their members may decide to opt in by having their college pass a regulation and submit it to the provincial government for approval.

I would hope that you would consider that penalizing multiple regulated health professions simply because another college doesn't want to allow spousal treatment for its members is grossly unfair.

Bill 70 continues to protect patients, spouses, and it maintains the status quo for colleges that do not want to allow—

The Chair (Mr. Garfield Dunlop): You have 30 seconds left, sir.

Dr. Rick Caldwell: —their members to provide spousal treatment.

Bill 70 also removes an unjust penalty currently imposed on professionals, such as dentists, and restores to spouses the same right as other Ontarians: It restores the right that they can select their own health care provider.

Thank you for your time. I'm more than happy to answer any questions you may have.

The Chair (Mr. Garfield Dunlop): Thank you very much, Dr. Caldwell.

First of all, we'll start with the Progressive Conservative caucus. Mr. Clark, you have three minutes.

Mr. Steve Clark: Thank you very much, Chair. Dr. Caldwell, I want to thank you for coming. I know you've provided a lot of advice—because I know that Bill 70 wasn't the first bill that I tabled to deal with the issue of having a spousal exemption.

I think it would be important for members of the committee to know just how many spouses in your industry this bill would affect.

Dr. Rick Caldwell: We have approximately 9,000 dentists registered in Ontario. All of their spouses could be affected by this current legislation.

Mr. Steve Clark: Again, I'm not going to belabour the questions because I want other members to have the opportunity to speak. But I do want to thank your membership, certainly from our perspective and our caucus. We've heard loud and clear from dentists in our riding about Bill 70.

Again, on our behalf, I want to thank your membership for engaging us. In my own riding, I've heard loud and clear from your membership that they want to have that opportunity. So I appreciate your comments.

Thank you, Chair. I have nothing further.

The Chair (Mr. Garfield Dunlop): Mr. Pettapiece?

Mr. Randy Pettapiece: I'd like to also thank you for the information that I've received. It's certainly important to all the professionals in my riding that this legislation is taken seriously.

Just as an aside, it's interesting—my wife and I have had a decorating business for 20 years and we wallpaper together. I can't imagine you guys working on a spouse's mouth without getting into a little bit of trouble if you happen to let something slip or whatever.

Congratulations to you. I wish you all the best with this legislation.

The Chair (Mr. Garfield Dunlop): You've been in wallpapering for 20 years with your wife?

Mr. Randy Pettapiece: Yes.

The Chair (Mr. Garfield Dunlop): Wow. I couldn't last for 30 seconds.

We'll now go to the NDP caucus. France Gélinas.

M^{me} France Gélinas: Thank you so much, Dr. Caldwell, for coming today. I very much appreciate the work that you have done in remote and mainly fly-in-only communities in the north. I fully recognize that for most of their communities, there is only one dentist who is brave enough and has enough empathy to come and serve them. So I fully support what you have said.

Would your motivations for that change—would that be answered if, in the bill, we specified that for remote fly-in communities the spousal exemption is granted, but for communities where there are two, three, four or five dentists, then it wouldn't be? Because the arguments you have made today wouldn't apply.

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Dr. Rick Caldwell: My arguments apply. As I said, my story is, obviously, about the north, because that is where I live and where I was from. But we have a principle in Ontario that when you're licensed in Ontario, you are licensed to go anywhere in Ontario. So you can't tell a dentist they have to go to a certain spot.

If you apply that same principle to the idea of the spousal exception, or Bill 70, my feeling is that wherever the dentist practises in this province—I don't feel that it's fair that they be discriminated and that their spouses be

discriminated against in terms of their choice of provider because of where they choose to live in this province.

M^{me} France Gélinas: Because we have lots of laws in Ontario that apply differently for people living in the north than apply to people living in the south, so it wouldn't be something new. But, for you, although the example you give was an example where there is only one dentist—it's not like you have any choice—you still bring it further than this. It doesn't matter if there are 100 dentists in the city; you still want the exemptions to be lifted.

Dr. Rick Caldwell: I still believe that the spouses should be given the choice of their health care provider.

M^{me} France Gélinas: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much to the NDP. Now we'll go over to the government members. Mr. Balkissoon?

Mr. Bas Balkissoon: Thank you, and thank you for being here.

You made it very clear that there are severe treatments to those who break the law. In Ontario right now, we have a zero-tolerance policy. Do you believe, in any way, that this bill will change anything? Because you made this statement that you know there are others who are going to object to this. So I think if you could clarify what is in place today in terms of the zero tolerance—how do you see that administered and how does this bill change anything?

Dr. Rick Caldwell: Well, in a one-word answer—the answer to the first question in one word is no. It does not change anything around zero tolerance. Sexual abuse, at any time, anywhere, is not tolerable, and should be prosecuted to the full extent of the law. It's as simple as that.

What Bill 70 does is it gives colleges the right, as I said, if they agree, and the provincial government agrees, that the treatment of spouses is appropriate.

The other piece, of course, is it removes the revocation of licence for sexual abuse. We find this concept that looking at a radiograph of a spouse, which is now deemed as sexual abuse—we find that offensive. It's just not tolerable. It's not reasonable.

Mr. Bas Balkissoon: Of all the provinces in Canada that currently permit this process of opting in, are you aware of any problems in those provinces that you could share with us?

Dr. Rick Caldwell: I'm not aware of any issues, but I speak for Ontario. I speak for dentists in Ontario. That is a situation which I am most familiar and most versed on. But I'm certainly not aware of any issues elsewhere in the country.

Mr. Bas Balkissoon: In the legislation that's in front of us—and I give Mr. Clark a lot of credit for changing his previous bill and working with the Ministry of Health to bring it here in the form it's in—they have gone out to clarify who is a spouse and who can be treated. Do you think that that really would help the process, to clear the air as to who can and who cannot be treated so that the college will know when it has to administer discipline and when it doesn't?

Dr. Rick Caldwell: Clear definitions are always useful.

Mr. Bas Balkissoon: Okay. Thank you very much—

Dr. Rick Caldwell: In terms of the regulatory pieces, though, those are not mine to answer. Those are for the college.

Mr. Bas Balkissoon: Okay.

The Chair (Mr. Garfield Dunlop): Any further questions from the Liberal caucus?

Mrs. Laura Albanese: No. We're good.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Caldwell, thanks so much today—Dr. Caldwell, I should say. Thank you for your presentation.

Dr. Rick Caldwell: Thank you.

DR. JOHN GLENNY

The Chair (Mr. Garfield Dunlop): The next presenter is Dr. John Glenny. Mr. Glenny—or Dr. Glenny, I should say—please proceed.

Dr. John Glenny: Good afternoon. Members of the Standing Committee on the Legislative Assembly, thank you for allowing me this opportunity to present to you this afternoon.

I had the chance to speak before the Health Professions Regulatory Advisory Council's hearings last year. I attended and presented along with my partner, Luigi. Luigi would have been here to speak with you today, but unfortunately had to work, so I am here on his behalf as well.

Our situation is unique in that my partner and I live in Toronto, but in our community we generally feel more comfortable going to a doctor, dentist or health care professional who we feel comfortable with and who will not judge us based on our sexual orientation. I'm sure that in the year 2013 we'd all like to believe that discrimination has been erased and that judgment does not exist, but I'm here to tell you that it does, and that many people in the gay community experience difficulty in finding health care professionals who are welcoming to, and accepting of or a part of, our community.

Luigi came to Canada years ago to find a more inclusive community in which his rights as a gay man are protected. He found that community here in Toronto. The difficulty now remains that, as his partner, I cannot treat him. Luigi wants you to know that he would be more comfortable seeing me for his dental treatment rather than having to see another dentist for treatment.

I can only imagine what this situation is like in communities in Ontario that may not be as inclusive or accepting of those of us who are openly gay. I feel for these people who may feel that their health care practitioner isn't sympathetic to their needs. Fear of discrimination and prejudice by health care providers is widespread in the gay community. We feel that only those within our community are truly able to understand us and the issues that are of concern to us.

I know that if Bill 70 is not enacted, the current legislation could do great harm to our community. By

denying the patient of his or her right to choose the best practitioner for them, the patient's well-being is at risk. Treatment cannot be provided effectively unless the patient is comfortable with the practitioner. How does one open up to their dentist about hormone therapy they may be taking if transgendered? Or concerns about their health if they fear discrimination based upon their sexual orientation?

Today, it is virtually impossible for a patient to seek out a gay health care provider. The gay community is small enough to begin with. Patients in my office know that I have a positive space for everyone regardless of their sexual orientation; they're welcome to be treated.

My partner immigrated to Canada for the freedom to make choices based upon, amongst other things, his sexual orientation. I cannot emphasize strongly enough how much more comfortable he would feel being treated by the one person who understands him and his health care needs better than anyone else: his own partner.

Canada has become a world leader in protecting gay rights. Recently, as you've seen, Canada took a stand against the discrimination our openly gay athletes may face during the Sochi Olympics.

I can say openly that trust and knowledge of one's health care provider is especially important in the dental field because, as a community, we fear further discrimination based on our sexual orientation. We want to feel comfortable opening up about our dental or health care needs in a positive, trusting, open environment.

When considering this legislation today, I urge you to remember me and remember Luigi, and allow colleges the ability to opt into the legislation. For the gay community, it could mean a world of difference to partners of health care practitioners whose colleges deem spousal treatment appropriate. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much, Dr. Glenn. I'd now like to go to the New Democratic caucus to start questioning.

M^{me} France Gélinas: Thank you. It's a pleasure to meet you, Dr. Glenn, and I couldn't agree more. I work with the trans community in Sudbury and there are prejudices alive and well in many health care providers, which is a real shame.

I wanted to ask you—by your presentation, it's quite clear that you spend quite a bit of time thinking about this, and wanting to be respectful to your spouse. I get it, that in your circumstances it would be way better if you could treat your spouse. Do you see any downside of giving dentists the right to treat their spouse? Do you think that we put anybody else at risk by doing this?

Dr. John Glenn: I'm not sure if I understand the question correctly. So for example, if I didn't have a licence to practice, there would be a whole section of the community that would be without someone who's looking after their needs, of the gay, lesbian, transgendered.

M^{me} France Gélinas: No, my question is, if the bill is passed and dentists opt to be able to treat their spouse, do you think that there are any members of our community who will become at risk?

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Dr. John Glenn: I don't follow.

M^{me} France Gélinas: Right now, dentists are not allowed to treat their spouses.

Dr. John Glenn: Right.

M^{me} France Gélinas: Once dentists are allowed to treat their spouses, do you figure that there are spouses who will be at risk of abuse?

Dr. John Glenn: No, I do not.

M^{me} France Gélinas: No. Do you follow your college at all, to see the disciplinary action?

Dr. John Glenn: Absolutely.

M^{me} France Gélinas: Do you know that there are dentists who are going through the discipline process for abuse right now?

Dr. John Glenn: Yes.

M^{me} France Gélinas: Okay. And you don't think that treating spouses will put new categories of people at risk of abuse?

Dr. John Glenn: No, I do not. The college really has an exemplary reputation for discipline, not just with sexual abuse but with any other malpractice issue, and they deal with it very well.

M^{me} France Gélinas: But you see the difference: They deal with it once it has happened; I am talking about preventing it from happening.

Dr. John Glenn: I'm not sure how to answer the question, really.

M^{me} France Gélinas: That's okay. Thank you.

The Chair (Mr. Garfield Dunlop): We'll now move over to the government members. Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you, Dr. Glenn, for being here, and thank you for appearing in front of HPRAC. I'm glad you took the opportunity to do that. Did you find that the process the government embarked on to let HPRAC do that review and then advise the government on what to was a worthwhile process?

Dr. John Glenn: Definitely.

Mr. Bas Balkissoon: So you found it a very positive experience.

Dr. John Glenn: Very.

Mr. Bas Balkissoon: If I could go back to my colleague on the other side, to steal one of her questions, earlier she said, "Do you see the process?" The way the bill is written, it's across the board; it's for all of Ontario. Do you believe that a process where some regions would be allowed to have treatment because they are remote and urban centres are treated with a different set of rules would be appropriate?

Dr. John Glenn: I don't, because I practise here in Toronto and I have patients who come quite a distance to see me.

Mr. Bas Balkissoon: Okay. Thank you very much. Thank you, Mr. Chair.

The Chair (Mr. Garfield Dunlop): No other questions?

Mr. Bas Balkissoon: No other questions.

The Chair (Mr. Garfield Dunlop): Then I'll go to the official opposition. Mr. Clark.

Mr. Steve Clark: Dr. Glenny, I want to thank you for presenting today on behalf of yourself and Luigi. I also want to thank you for coming forward and presenting to the committee when they were deliberating on their report.

I guess I'll take a different approach than some of my other colleagues. In a minority Parliament, lots of things can happen. Agreements can be made; agreements can be modified or broken. What happens, in your opinion, if the status quo results after this legislative process?

Dr. John Glenny: Well, I hate to say this, but even in this day and age there is a stigma attached to being a gay man in Ontario. I feel it, and the whole community feels it. Even though I can speak openly about it to my fellow regulated health care practitioners, I know that there are a good many of my regulated health care professional colleagues who do not, and they do fear prejudice if they come out—come forward.

Mr. Steve Clark: That's fine.

The Chair (Mr. Garfield Dunlop): Dr. Glenny, thank you very much for your presentation this afternoon. That concludes your time here.

Dr. John Glenny: Thank you.

The Chair (Mr. Garfield Dunlop): I appreciate very much your coming forward today.

DR. LOUANN VISCONTI

The Chair (Mr. Garfield Dunlop): We'll now go to our third deputant, Dr. LouAnn Visconti. Dr. Visconti, you have five minutes.

Dr. LouAnn Visconti: Members of the standing committee of the Legislative Assembly, I would like to thank you for allowing me this opportunity to address you this afternoon.

Following my graduation as an orthodontic specialist, I moved from Toronto to Timmins, where I have been in a solo orthodontic practice for the past 21 years. What attracted me to move to Timmins—other than my husband, who was born and raised there—was that the area was in need of dental specialty services. At the time of my graduation, there was one orthodontist who would travel between, and provide services to, the four northern Ontario cities of Timmins, Sudbury, North Bay and Sault Ste. Marie; however, he was retiring.

When I began practising 21 years ago, I was the only resident dental specialist in Timmins. Today, out of 1,213 dental specialists, 369 of them being orthodontic specialists, I am still the only resident dental specialist in Timmins. We do have an orthodontist who travels from Sudbury to Timmins, but he comes once every six weeks.

Living in the north has been wonderful, but it certainly does have its challenges. One of the largest challenges is access to care. Half of my patient population is from out of town, some as far as three- to four-hours' travel time away. So you can imagine that the logistics of how I practise are so much more different than how my colleagues in the south practise.

Coordinating treatment with other dental specialists requires extensive planning and significant effort on the

part of the patient and the parent. For example, to set up a 30-minute consultation in Toronto or Ottawa requires extensive loss of time from work and school, as well as costs for travel, accommodation and food. Travel grants, which are a benefit of OHIP, are not given to these patients, simply because they are being referred to a dental specialist, where many of the procedures are not covered by OHIP, and not a medical specialist.

When my husband was younger, he had some back teeth removed, which he never had replaced with false or missing teeth. Consequently, the opposing and adjacent teeth have moved, thereby creating problems with his bite and, specifically, his chewing. In order for his dentist to replace these missing teeth, my husband requires orthodontic therapy to place the remaining teeth in a position to facilitate replacement of the missing ones.

Because I'm the only orthodontist in Timmins, I cannot treat my husband, according to the Regulated Health Professions Act. As I mentioned, we do have another orthodontist who travels from Sudbury. However, because he comes so infrequently, my husband cannot get in to see him.

The next closest orthodontist is a three-and-a-half-hour car ride away down a treacherous highway, Highway 144, which has many rock cuts and no shoulders and has been contributory to many accidents, many of them fatalities. So you see there is a safety issue as well as a cost issue.

If the Regulated Health Professions Act were amended, then individuals such as my husband would not have to be exposed to the inconvenience, risk and cost of seeking treatment outside their communities.

I would like to thank you for allowing me to speak to this important issue, and for respecting the rights of spouses in northern Ontario when considering Bill 70.

The Chair (Mr. Garfield Dunlop): Thank you very much, Dr. Visconti. We'll now go to the government members. Mr. Balkissoon, you have some questions.

Mr. Bas Balkissoon: Thank you for being here, Dr. Visconti, and thank you for making the trip all the way to Toronto. We hear you loud and clear: It is an absolute necessity to do what we're doing here today.

I forgot to ask the other two deputants—most of you are dentists. Do you have the confidence that your college will do the opt-in and help you out?

Dr. LouAnn Visconti: Absolutely.

Mr. Bas Balkissoon: Okay. I just wanted to make sure that the college will do what we're doing here, because we're going through a lot of work.

Thank you very much, and thank you for coming to present.

The Chair (Mr. Garfield Dunlop): No other questions from the government members?

Mrs. Laura Albanese: No. We're good.

The Chair (Mr. Garfield Dunlop): Okay, to the official opposition.

Mr. Steve Clark: Thanks, Dr. Visconti, for coming today and making your presentation. I guess what both you and Dr. Caldwell, in his opening statement, really

identify—and you can correct me if I'm wrong—is a real barrier that this legislation would correct to access in the north for health care professions like the one you're involved in.

Dr. LouAnn Visconti: I also see this as a barrier to access for northern patients. If we can't attract dentists and other regulated health professionals to the north because of this law, then the north is going to continue to be underserved.

Mr. Steve Clark: Can you help me out? The traveling dental specialist: If you used that service, how long would you have to wait?

Dr. LouAnn Visconti: He was retiring when I moved to Timmins, but he would be in town monthly, so every four weeks. But, as I say, he travelled between the four northern Ontario cities.

Mr. Steve Clark: And the only other option is 300 or 400 kilometres away?

Dr. LouAnn Visconti: That's right. Oh, sorry. You were talking about the orthodontist that's coming there now.

Mr. Steve Clark: Yes.

Dr. LouAnn Visconti: He comes from Sudbury, and he's there every six weeks—

Mr. Steve Clark: Every six weeks.

Dr. LouAnn Visconti: —and he's there for two days, so you can imagine. If he comes every six weeks for two days, he's full for at least a year.

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Mr. Steve Clark: Oh, absolutely. Okay.

Thank you very much, Chair.

The Chair (Mr. Garfield Dunlop): No other questions?

Mr. Steve Clark: I have no other questions.

The Chair (Mr. Garfield Dunlop): Mr. Pettapiece?

Okay, we'll now go to the third party. Ms. Gélinas.

M^{me} France Gélinas: Thank you, and thank you for making the trip. I know how much fun it is to travel from northern Ontario to Queen's Park. I do it regularly. I was stuck in the fog for three hours on Monday, which—anyway, that's the story of my life.

Dr. LouAnn Visconti: Oh, yes.

M^{me} France Gélinas: I wanted to kind of pick your brain as to, do you know why this policy was brought upon dentists? When it was brought in, we already knew that it was going to affect dentists who practise in remote communities and in northern communities that I represent.

Dr. LouAnn Visconti: Well, my comment to that would be that I think it was never the intent of this legislation to prohibit regulated health professionals from treating their spouses. In 1993, the former Minister of Health, the honourable Ruth Grier, indicated in a 1993 letter to MPP Jim Henderson that regulations were to be developed for a spousal exemption. However, they were not developed. It was never done. So to answer your question, when this was originally formulated, it was not the intent of the bill to include spouses.

M^{me} France Gélinas: I don't know if you know the rate of spousal abuse in Timmins?

Dr. LouAnn Visconti: No, I don't, offhand.

M^{me} France Gélinas: The rate is quite high. In general, in Ontario, 6% of women are abused by their spouse; in Timmins, it is close to double that. The number of women at risk in Timmins is really high. There aren't that many dentists, so I'm not picking on them or anything. But what would you have to say to those women's groups in Timmins who are saying that the rate of spousal abuse in their community is so high that they feel more comfortable knowing that zero tolerance will continue to apply to people in Timmins?

Dr. LouAnn Visconti: Zero tolerance is going to continue to apply to people in Timmins—to all people. Zero tolerance will continue to apply to the dental profession with respect to overt sexual abuse. However, I find it almost offensive to not be able to tell my husband, or to show him, where to wear orthodontic elastics because I'm going to have my certificate revoked for five years and be put on the public register as a sexual offender. I think that there has to be a clear distinction here. To me, that's not sexual abuse. My husband is also a professional, and I don't see it as any imbalance of power or any of these other things.

That's not to diminish sexual abuse and things that should be done about it. Definitely, if someone is found committing this crime, they should be charged to the letter of the law. I just don't equate, as I say, helping my husband put his orthodontic elastics on to an act of sexual abuse. I think there has to be a clear distinction there.

The Chair (Mr. Garfield Dunlop): Your time is up, Ms. Gélinas. Would you like to add something to it?

Dr. LouAnn Visconti: No, I'm fine.

The Chair (Mr. Garfield Dunlop): Okay. Well, thank you so much.

Dr. LouAnn Visconti: Thank you.

ONTARIO CHIROPRACTIC ASSOCIATION

The Chair (Mr. Garfield Dunlop): We'll now go to our next presenter, and that's Dr. Robert Haig, the CEO of the Ontario Chiropractic Association. Thank you. Please proceed, Dr. Haig.

Dr. Bob Haig: Mr. Chairman, members of the committee, thank you very much. My name is Dr. Bob Haig. I'm the CEO of the Ontario Chiropractic Association. Association President Dr. Natalia Lishchyna sends her regrets. She was intending to be here, but was unable to be here.

The OCA is the mandatory professional association for chiropractors in Ontario. We have about 3,400 members, 80% of the practising chiropractors in Ontario.

The very extensive jurisprudence and jurisdiction reviews that were done by HPRAC demonstrated fairly clearly that Ontario is unique in that it has adopted a very broad interpretation of sexual abuse. The courts have interpreted the legislation to afford no flexibility to allow treatment in the context of a pre-existing spousal relationship.

There is a mandatory penalty, without any discretion to consider the circumstances, and the mandatory penalty

is the most severe of any of the jurisdictions that were reviewed: the five-year revocation.

Ontario has had this legislation in place for 20 years, yet no other jurisdiction, even within Canada, has felt the need to follow in this direction in order to achieve the same important objectives of preventing and deterring sexual abuse of patients.

Over the 20 years since the enactment of the RHPA, interpretation of its sexual abuse provisions by the courts has taken us in an unanticipated direction that imposes vastly disproportionate consequences on our members, on other regulated health professionals and on their spouses, consequences that are not necessary to achieve the objectives of zero tolerance of sexual abuse.

Simply put, and I know we all understand this, the trigger for the five-year mandatory revocation is sexually abusing a patient. However, while sexual abuse is well-defined in the procedural code, there is no definition of “patient” anywhere in the RHPA or its procedural code. The prohibition against a concurrent patient and sexual relationship, which is a pillar of Ontario’s zero-tolerance policy, is simply not required and, in fact, it can be detrimental when the patient is a spouse.

This does not actually serve either true victims of sexual abuse or the province. The current blanket inclusion of spousal relationships within the definition of sexual abuse actually detracts from the very serious policy concerns that gave rise to the legislation. Currently, a victim of sexual abuse and betrayal at the hands of a trusted health professional is treated exactly the same way under the legislation as a spouse who receives treatment on the weekend from his or her health-practitioner spouse and who is not complaining of any sexual abuse at all. The label and the sanctions seen by the public and those seen by the true victim are actually identical.

In this way, the inclusion of the treatment of spouses within the definition of sexual abuse has or, if it’s left in place, over time dilute the impact of the legislation. The broad definition over time trivializes the sanction that was meant to express support to victims and the public’s outrage at the sexual abuse of patients by health practitioners.

In chiropractic, prior to the prohibition, it was common for chiropractors to treat their family and to treat their spouse. It is part of the culture of our profession. There are really two reasons for this. The chiropractic profession itself is a fairly close-knit group of people; there’s a family-like feeling within the profession. Providing care to one’s family is part of providing care to your family and caring for them generally.

But secondly—this partly addresses an issue that was raised in one of the questions with one of the previous presenters—chiropractic is very much a hands-on profession. That means that there are differences in patient experiences depending on the methods that are used by a different chiropractor. Spouses tell us that they have a great deal of confidence in their spouse’s techniques and their spouse’s ability to treat them. They’re not happy with being forced to go see a different chiropractor.

Obviously, the smaller the community, the worse that gets. The current legislation essentially prevents those spouses from receiving care from the practitioner of their choice.

The majority of chiropractic practice is the diagnosis and management of neuromusculoskeletal conditions, pain syndromes, and in those—

The Chair (Mr. Garfield Dunlop): You’ve got about 30 seconds left, sir.

Dr. Bob Haig: Okay. It’s important for early intervention on those, and preventing someone from seeing their spouse who’s a chiropractor actually detracts from their treatment in doing that.

We think Bill 70 is the right solution. We think that it achieves the purpose and objectives of the mandatory revocation provisions better, because it targets true abuse. It preserves resources in order to deal with the conduct that really does pose a risk to the patients, and it allows the individual professions the flexibility to opt in if they want to. We believe this legislation is overdue. It’s important, it’s right-minded, and the chiropractic profession supports it.

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The Chair (Mr. Garfield Dunlop): Thank you very much for your presentation, sir. We’ll now go to the official opposition. Mr. Clark.

Mr. Steve Clark: I want to thank you very much, Dr. Haig, for coming today. You mentioned the fact that Ontario has had the legislation for about 20 years and no other jurisdiction in Canada has it. Are you aware of any specific thing that other jurisdictions do to deal with the issue that we aren’t doing?

Dr. Bob Haig: I’m afraid that I don’t have a lot of specifics on the other provinces, and I’m not the best person to speak with on that. In saying that, I was essentially quoting the HPRAC findings.

Mr. Steve Clark: Just further, Chair, if I might, you did mention—I know you were rushed a bit—about the opt-in provisions. Would you be in a position to speak on behalf of the OCA on what their view would be if such legislation would be passed by the Legislature?

Dr. Bob Haig: The OCA, the Ontario Chiropractic Association, which I represent, would be strongly supportive of it and would strongly support an opt-in provision. I don’t know what the College of Chiropractors might do when they consider it.

Mr. Steve Clark: Thank you very much.

The Chair (Mr. Garfield Dunlop): Mr. Pettapiece?

The third party. Ms. Gélinas.

M^{me} France Gélinas: It’s always nice to see you, Dr. Haig. Thank you for coming to Queen’s Park. I’m just a little bit curious about some of the comments you did at the very beginning that said that it does not serve the true victims of sexual abuse and it trivialises victims of abuse. What did you mean by that?

Dr. Bob Haig: What I meant—and I apologize if I wasn’t clear, but there was some conversation earlier about whether this was or was not part of the intent of the original legislation. I sat in this chair during the Bill 100

discussions and committee hearings, and there was no question that there was very, very much a desire by all parties to make sure that there were stringent—that sexual abuse by health professionals of their patients was dealt with very stringently and preventive measures were put in place. There was not an intent to include spousal patients in that. There were conversations that led to an assumption that they were excluded and there was some paperwork that was mentioned before—but what I meant by that is that if we include things like sexual abuse charges against spouses for things that are not viewed by anyone as sexual abuse except for the technicality of the legislation, it detracts from the ability of colleges, because colleges have to investigate and prosecute all of those. There are cases where there has been sort of prosecution because that's what the law requires. That detracts from their ability to deal with other things and it detracts from the perception of sexual abuse as the most serious thing that happens. That's really the point I was trying to make.

M^{me} France Gélinas: Okay. I must be old because I also remember 1993 and why this was viewed as a huge victory for basically women's groups and victims of abuse.

Does your association keep track of how many of your members are found and disciplined for sexual abuse?

The Chair (Mr. Garfield Dunlop): You have about 30 seconds to wrap up here.

Dr. Bob Haig: Okay. I'll be quick. We don't keep track of it. I mean, they are all reported in the college's annual report, so they are there. There have been a number of cases. I'm aware of one—I don't know if I can say this in this circumstance or not—that is current where there's a husband and wife, who are married to each other, who are both now facing charges of sexual abuse, and neither one of them complained. It was a third party that complained. The provision is being used in an improper manner.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the government members. You have three minutes.

Mr. Bas Balkissoon: Dr. Haig, thank you very much for being here. You just indicated to Mr. Clark that you're not sure what the college would do when it comes to chiropractic. There's been no dialogue between the college and the association on, if this was to pass, what would happen?

Dr. Bob Haig: I've never found it useful to try to speak on behalf of the college, no.

Mr. Bas Balkissoon: Do you have a gut feeling?

Dr. Bob Haig: We have not had conversations about it, no. Obviously, we've looked carefully at their response to HPRAC during that, but quite frankly, since then, we have not. We have great confidence in the college and in their ability to make decisions and we don't interfere with those decisions. What we have been looking for and what we think is appropriate is what this bill does, and that is, it provides the option to colleges.

Mr. Bas Balkissoon: Did your association appear before HPRAC?

Dr. Bob Haig: We did, yes.

Mr. Bas Balkissoon: And in support.

Dr. Bob Haig: In support, yes.

Mr. Bas Balkissoon: Okay. Thank you very much.

Mrs. Laura Albanese: I guess I have just one more question.

The Chair (Mr. Garfield Dunlop): Yes, go ahead, Ms. Albanese.

Mrs. Laura Albanese: Are there any aspects of the bill that you would—do you support the bill in its totality or is there anything you would like to see changed or added?

Dr. Bob Haig: Quite frankly, we support it the way that it is. We don't have anything that we would suggest to change it. It accomplishes what needs to be accomplished, we believe.

Mrs. Laura Albanese: Thank you.

The Chair (Mr. Garfield Dunlop): Okay, thank you. Dr. Haig, thank you very much for your time today.

ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO

The Chair (Mr. Garfield Dunlop): We'll go to our next presenter, and that's the Royal College of Dental Surgeons of Ontario: Dr. Peter Trainor and Irwin Fefergrad, the registrar. Welcome, gentlemen. You have five minutes.

Dr. Peter Trainor: Thank you. Mr. Chair, members of the committee, I am Dr. Peter Trainor. I am a dentist and I am the president of the Royal College of Dental Surgeons of Ontario, a college which regulates approximately 9,200 members in Ontario. You have before you information which we previously distributed. With me today is Mr. Irwin Fefergrad, who is the registrar of the college.

First of all, let me state the obvious: We believe that sexual abuse of patients by a dentist or any health care professional is a very serious matter. It involves a breach of trust, which is the bedrock of the patient-professional relationship. Simply put, it is abhorrent.

As a health care regulatory college, RCDSO has a critical role to play in public protection by doing our utmost to prevent the sexual abuse of any dental patient. It is our fundamental responsibility to deal with reported cases of sexual abuse in a sensitive, respectful, yet very effective manner, and we do that.

To demonstrate how we put those values into action, I want to refer to a recent case and decision from a panel of our discipline committee. The case involved allegations of professional misconduct against a Toronto dentist. Those allegations included—and I now quote right from the panel's final decision—"disgraceful, dishonourable, unprofessional and unethical conduct" for engaging in the sexual abuse of the patient. This abuse included, among other things, sexual intercourse with the patient. The panel's decision was clear. It found—and again I

quote—that “the member’s conduct in his admitted sexual abuse of a patient was disgraceful and that this conduct dishonoured the” entire “profession.” The penalty decision by the panel was a five-year revocation of the member’s certificate of registration, effective immediately, as well as a reprimand.

This case demonstrates that this standing committee and, indeed, the public of Ontario should have full confidence in our ability to deal with sexual abuse matters with all integrity and vigor as intended in the original RHPA legislation.

I want to assure you that sexual abuse, as one would define it in the statute, is not a problem within the dental profession. For decades, starting way before the decision of the Court of Appeal in 2009, thousands of dentists have treated their spouses, and they have done so safely and without any cause of concern. Since 1993, at our college, there has only been one complaint about a dentist treating a spouse, and that complaint was filed by someone other than the spouse.

It will be no surprise, then, to know that RCDSO is in support of this bill. We are pleased that it gives each regulator the discretion to deal with this matter in a way that is appropriate to each of them.

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At our college, we believe that these matters belong before the discipline committee. This statutory committee is composed of both professional members and public representatives appointed by government. This committee is more than able to use its judgment in these situations, as it does in other serious matters of professional misconduct. This committee can make a sound and reasoned decision based on the evidence before it, taking into account any aggravating or mitigating circumstances, and we know from experience that this will in no way weaken or jeopardize our ability as a regulator to fulfill our mandate of public protection.

I believe that this is not the time for false humility. The Royal College of Dental Surgeons is a responsible regulator. We have demonstrated that year after year, since our founding over 140 years ago. In fact, we are so responsible that in January 1995, under the then NDP Minister of Health, the honourable Ruth Grier, our college received a letter from the ministry about the Regulated Health Professions Act.

It stated, and I am quoting directly from that letter, “You asked for assurance that nothing in the RHPA would prohibit a dentist from treating his or her spouse. While the RHPA does provide a broad definition of sexual abuse of a patient, it is not the intention of the legislation to regulate the relationship between spouses. In answer to your question, you can advise your membership that they can continue to provide dental treatment to their partners.”

Even in 2009, when there was a massive review of the act, the government did not waver or rescind that advice given to our college, that its members could continue to provide dental treatment to their partners. RCDSO has always demonstrated that we take our legislated mandate of public protection with extreme seriousness.

The Chair (Mr. Garfield Dunlop): You have 30 seconds, sir.

Dr. Peter Trainor: We continue to excel at fulfilling the full intention of the spirit of the Regulated Health Professions Act. At the beginning of this year, we commissioned an external, unbiased review of our regulatory operations, and Mr. Harry Cayton of the Professional Standards Authority gave us a clear and unequivocal report that we exceed all standards of good regulation.

In closing, I want to reiterate that our college is supportive of Bill 70, as promised. However, I would like one caveat, and that is that we ask for some assurances that once this act receives royal assent, the accompanying regulations can be fast-tracked. As many of you know, that part of the process can sometimes be dragged out over years, but that kind of indiscriminate delay would be a disservice to the dentists of this province.

I want to thank you as committee members for your full attention, and I certainly would welcome any questions.

The Chair (Mr. Garfield Dunlop): Thank you very much, Dr. Trainor. We will now go to the third party. Ms. Gélinas.

M^{me} France Gélinas: Thank you so much, Doctor, for coming here today. I appreciated your presentation. I think you made some very compelling arguments.

As a dentist makes his way through the ICRC process, who pays for his representation? If he has to be represented by a lawyer, does that come out of his or her own pocket?

Dr. Peter Trainor: If a dentist has legal counsel defending them, that is their responsibility, yes. I could possibly ask Mr. Fefergrad, our registrar, to maybe further expound on that.

Mr. Irwin Fefergrad: There is an insurance program that is run independently called the Canadian Dental Protective Association. Dentists who belong to that buy themselves a vigorous defence.

M^{me} France Gélinas: Okay. And if the person who has put the complaint needs to defend herself or himself, does the college pay for their legal fees or do they have to pay for that themselves?

Mr. Irwin Fefergrad: I’m glad you asked that. It’s an excellent question. We have not only paid for legal fees when the complainant feels exposed, we have paid for therapy and we have provided support through our sexual abuse prevention program to the complainant. I don’t think there is any complainant that is left on his or her own.

M^{me} France Gélinas: And does the monetary support start from the start, when you don’t know which way it is going to go, or is the monetary support solely once the dentist has been found guilty?

Mr. Irwin Fefergrad: Well, before we throw money at somebody, they have got to ask for it, right? So the request comes, and it goes to the appropriate committee. The committee makes a determination. We would not wait for an outcome of the complaints committee—the ICR committee—to provide support.

M^{me} France G  linas: To the person who puts in the complaint?

Mr. Irwin Fefergrad: Exactly.

M^{me} France G  linas: About how many sexual assault complaints do you handle every year?

Mr. Irwin Fefergrad: Offhand, I would say about 550 complaints.

Dr. Peter Trainor: That's complaints in total.

M^{me} France G  linas: And how many of them would be related to sexual offence?

Mr. Irwin Fefergrad: I would say maybe three.

M^{me} France G  linas: And are you pretty well—

Mr. Irwin Fefergrad: Sorry. And not all of them are as is defined under the act—

M^{me} France G  linas: No, no. I—

Mr. Irwin Fefergrad: It could be touching. It could be boundaries. It could be innuendo language. It's rare—very rare—for us to have a complaint of any nature or kind involving sexual abuse as defined in the act.

The Chair (Mr. Garfield Dunlop): You've got 50 seconds.

M^{me} France G  linas: How about usage of narcotics? Do you have complaints about dentists using their privilege of prescribing narcotics?

Mr. Irwin Fefergrad: There are a few, and that's an excellent question. I anticipated that. We have a report here that I think I'd like you each to have. This was done by HPRAC on the prescribing privileges of dentists. HPRAC could not be more laudatory on the college's protecting of the public interest, on the training of dentists in pharmacological prescriptions and on its responsible use as a profession. So I'm very glad you asked that question. Read this and you'll find that it'll give you the comfort that it should give all members of the committee.

M^{me} France G  linas: I had seen it already. I was looking for the number.

The Chair (Mr. Garfield Dunlop): Okay. Thank you. We'll get around to that. Maybe you can answer it in part of the—the government members.

Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you very much, Mr. Chair, and thank you both for being here.

Am I to understand clearly, then, the zero-tolerance policy that is administered today in your discipline process for sexual assault etc., and the changes we're making here, and if your college was to opt-in—you absolutely see no change in the process?

Dr. Peter Trainor: I'm here to say that the college has a zero-tolerance position on sexual abuse of a spouse or a patient. We firmly believe that and continue to support strong sanctions, and deterrents are embedded in the legislation. But it is fundamentally wrong to equate, without exception, the treatment of a spouse or partner by a dentist as sexual abuse as defined in the statute.

Mr. Bas Balkissoon: Thank you very much.

The Chair (Mr. Garfield Dunlop): Any other questions from the government members?

Mrs. Laura Albanese: Thank you. No.

The Chair (Mr. Garfield Dunlop): To the official opposition. Mr. Clark.

Mr. Steve Clark: Thank you very much for your presentation and your comments. I guess my only question is regarding Bill 70, and I know that it has had several different incarnations. Do you have any objections with the way the legislation is currently proposed?

Dr. Peter Trainor: We support the bill as it is presented, but as I said, with the one caveat: that we could have some assurance that the regulations that are necessary to allow individual colleges to utilize the functionality of the bill would, in fact, be fast-tracked. Because, as you know, this can take a considerable amount of time, and that delay would cause a further hardship upon the profession of dentistry. This is an issue that is the single most troublesome issue before this profession in decades. We would like to bring a resolution to this as quickly as we possibly can.

Mr. Steve Clark: I have no further questions.

The Chair (Mr. Garfield Dunlop): Well, thank you very much, Dr. Trainor, for being here today. It's appreciated very much.

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The Chair (Mr. Garfield Dunlop): We'll now go to our next deputation, which is the College of Physicians and Surgeons of Ontario, and that's Dr. Marc Gabel and Ms. Louise Verity. Please proceed.

1400

Dr. Marc Gabel: Good afternoon. Thank you for the opportunity to appear before the committee on Bill 70. I'm Marc Gabel. I'm the vice-president of the College of Physicians and Surgeons of Ontario and a present member and former chair of the college's discipline committee. Outside of the college, I'm a general practitioner, practising in the areas of psychotherapy. Joining me from the college today is Louise Verity, who is the associate registrar and director of our policy and communications department.

I would like to state very clearly at the outset of the presentation that the College of Physicians and Surgeons of Ontario is very appreciative of the work of Mr. Clark, in particular for collaborative efforts in addressing some of the college's concerns.

We shall, in our submission today, attempt to explain why we continue to support the legislative provisions that are currently in place and bring to the committee's attention two areas where we have drafting concerns in the present issue. That said, we continue to feel that the current Regulated Health Professions Act of 1991 is not in need of any amendments on this issue. We feel that any exemption would have the effect of diminishing or diluting the zero-tolerance scheme embedded in the RHPA.

The zero-tolerance provisions of the RHPA were incorporated in response to this college's independent task force on sexual abuse of patients. That report was chaired

by Marilou McPhedran in 1991. In convening that task force, the college took an important leadership role, and it was because of its sincere concern for existing and potential victims that the task force recommended that no exemptions to the sexual abuse provisions be introduced into the RHPA at that time. The task force recommendations on that matter were informed by consultations with more than 300 victims of sexual abuse.

There is, in our minds, an inherent power imbalance between doctors and their patients. The introduction of this exemption would deny the presence of this imbalance in a spousal context.

We are aware that some health practitioner groups have advanced the argument in favour of a spousal exemption because they feel it would be convenient and appropriate to treat their spouse. This is not the case for physicians. The pertinent issue, from the perspective of the public interest, is how to protect patients from abuse and not how best to enable health professionals to treat their spouses. The mandatory revocation provisions, as they are, provide the public with this protection.

It's appropriate to note that of all the Ontario health colleges, our college, the College of Physicians and Surgeons of Ontario, has conducted by far the greatest number of disciplinary hearings relating to sexual abuse. This has included cases involving patients who have been sexually abused by who is reputed to be or may be their spouse. In our experience, vulnerability to sexual abuse can and does exist both within and outside of spousal relationships.

Notwithstanding our support for the existing provisions of the RHPA, we recognize that Bill 70 is a significant improvement over the approach recommended originally by the Health Professions Regulatory Advisory Council. We do want to take this opportunity, therefore, to highlight a couple of drafting issues, those being that defining spouse and the practice of the profession.

Looking first at the definition of spouse, as provided in the proposed amendment to the section 1(6) of schedule 2, it has historically proven extremely difficult to define the term "spouse." One need only look to courts throughout Ontario where the Family Law Act definition of spouse is applied to find examples of the extensive litigation that flows over the issues of whether a person is a spouse and when the relationship began and when the relationship ended.

Although we feel that the definition in Bill 70 is an improvement over the earlier bill, the reality of the detailed fact-finding process that is required to evaluate whether a spousal or conjugal relationship is present and when it began and when it ended is complex. Any definition of spouse will result in extensive litigation before the discipline committee, which will be required to focus on whether a spousal relationship was present or whether the relationship had sufficient characteristics to be characterized as a conjugal relationship.

Our second drafting issue pertains to the proposed subsection concerning how we will be—how do we say?—excluding certain behaviours so that the person

can take advantage of a sexual abuse exemption. What we believe is that this provision will be very difficult to interpret and enforce and will result in discipline panels being bogged down in the determination of the exact point when the practice of the profession began and ended in specific instances and when the conduct, behaviour or remarks of a sexual nature began. The challenge of drawing a fine line between the practice of the profession and conduct, behaviour or remarks of a sexual nature highlights an aspect of the problem and the problematic nature of a spouse providing treatment to his or her spouse.

We have also for your benefit appended our more in-depth, earlier submissions to today's submissions. Finally, we do appreciate the time and consideration you have given to our concerns and I'd be pleased to attempt to answer any questions you may have.

The Chair (Mr. Garfield Dunlop): Thank you very much, Dr. Gabel. We'll now go to the government members. Mr. Balkissoon, you have three minutes.

Mr. Bas Balkissoon: Thank you, Mr. Chair. Doctor, thank you very much for your presentation. I hear you clearly, but would you agree with me that the various sectors of the health professions—that their scope of practice is quite different from each other?

Dr. Marc Gabel: I would agree that I can only talk from experience for our own profession, for the College of Physicians and Surgeons. I would say, though, that the ability of other—the whole reason the RHPA exists for all the health professions is that sexual abuse is possible in them as well.

Mr. Bas Balkissoon: Okay. In regards to the bill itself, the fact that the bill is written in such a manner that you can opt in and it gives your college the option not to participate—because you believe you have enough evidence that in your practice of the College of Physicians and Surgeons, it's a worthwhile thing to have as a protection for your members. Would you agree that the government has really taken this to the step where people who do things that are different in the health care field do have the option to choose?

Dr. Marc Gabel: I would agree with you that they therefore do have the option to choose and we have the option to choose. I believe there will be pressures both legally and possibly professionally for us because of the other professions, which may change. I don't know whether that would produce legal challenges. I know, as a member of the discipline committee, we hear a tremendous number of legal challenges to wording of legislation. Because this applies to, let's say, the physiotherapists or the dentists, how is this going to really carry out and where's the fairness? I do believe that it will cause a greater extension of our discipline hearings, even though we will not opt in.

Ms. Louise Verity: But just to also help in terms of answering the question, we do recognize that the solution that is proposed in the legislation is, certainly for the CPSO, much more acceptable than earlier versions of this bill and certainly what the recommendation was with respect to the HPRAC report.

Mr. Bas Balkissoon: And I would agree. It's much more acceptable but I would also say it's much more practical. Am I to assume that your organization made extensive presentations to HPRAC when they considered this issue?

Dr. Marc Gabel: I'd ask you, Ms. Verity, because I was not there at that point.

Ms. Louise Verity: We did. We did make a presentation before the committee. I actually don't have the consultation numbers in front of me. I guess our concern, when we first reviewed the report, was the fact that I believe the number of victims' groups and sexual abuse victims as well who participated—they weren't able to get to that level of participation that would have been helpful, perhaps, to inform the report.

One thing that I would also point out, and I'm not sure if it made it into our presentation or not, but the report that was commissioned by the CPSO—the task-force report, the independent report that was chaired by Marilou McPhedran—there were more than 300 victims of sexual abuse who participated in the consultation process there.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you.

The Chair (Mr. Garfield Dunlop): We'll now go to the official opposition. Mr. Clark?

Mr. Steve Clark: Thank you very much. I want to thank you for your presentation. I appreciate the correspondence that you sent me indicating that this bill is an improvement upon what I originally tabled in Bill 68. I appreciate the comments that you made just a few minutes ago to Mr. Balkissoon's question about the fact that this bill also provides a better recommendation than what was part of HPRAC. I appreciate you putting that in writing and also putting it on the record.

I do understand your concerns about the definition and both issues. I know that when I spoke with the Ministry of Health we had a long discussion about those two particular issues.

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I guess I don't particularly understand. If you're not going to opt in, what is the concern with the other groups? I'm still unclear about that. I look at my inbox, Chair—the complaints on regulated health professions. I have to tell you, you're a regulated profession and I have far more complaints—not sexual complaints, but other complaints—than in every other health profession combined, so I do think that we all need to take the comments that we receive to heart.

I guess my question is, what else do you think needs to be done in the regulated health professions regarding sexual abuse? Is there something outside of this bill that you feel needs to be done?

Dr. Mark Gabel: Thank you for that question. My impression is that what you're asking is not so much a legislative issue, but how the college proceeds to continue to educate physicians on the issue of sexual abuse, to inform the public about what sexual abuse is, to aid

them in being able to define it and also to protect themselves, but most importantly to continue a major educational campaign among physicians, which we do and which we are proceeding to plan to do even further as far as education throughout the professional life cycle.

Ms. Louise Verity: To that end, we also have policies in place that are designed to guide the profession with respect to setting appropriate boundaries and other things. These are policies that, from the college's perspective, we try to ensure are reviewed regularly, to ensure currency.

I think the more general question that has been posed by Mr. Clark about what this college is prepared to do around sexual abuse is a very good question. All I can say is that any complaint that comes to the college—any allegation—is taken extremely seriously, and a complaint would receive a full investigation in order to make sure that the patient's and the public's interest are always protected.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Clark. We'll now go to the third party.

M^{me} France Gélinas: We all know that the colleges were put there to protect the public. They're not there to protect their members. They're there for the protection of the public. Continuing on what MPP Clark was saying, if Bill 70 goes through and some regulated health professional colleges opt in, and you don't, do you still see an increased risk? Do you see that the ability to protect the public is diminished?

Dr. Mark Gabel: The short answer would be, yes. I think that it becomes the first chink in the armour that is protecting patients, not only in the area of physicians, but in the area of the other colleges as well. That being said, we will continue, if this bill passes, to continue to do our best to make sure that we do totally continue to try to abolish.

M^{me} France Gélinas: Walk me through how the protection of the public is diminished.

Dr. Mark Gabel: I think that the conceptual framework—whether spouses can be sexually abused—is the first thing that comes up for question. I think it was a long journey to 1991 and to that hearing, to bring up that there aren't classes of women who are exempt from abuse. I think that, in some sense, we give that message.

I am also concerned, as I mentioned, about the legal questions that will arise during our discipline hearings.

That being said, we obviously will plan not to opt in—that would be our plan—and we will do our best to continue to work with our profession.

M^{me} France Gélinas: You say that this is the first chink in the armour—I'm not sure of the word that you used. How big of a hole do you see this being?

Dr. Mark Gabel: I don't think I can quantitate that, but we came up with the idea in 1991 of zero tolerance because sexual abuse did not just apply to certain classes of women or men. It applied to all. I see this as the first place that says, "Well, there's an exception to that rule." Will there be another exception to that rule?

My feeling, basically, is that the system has worked well. We have been able to care for issues where there are rural issues, where a physician may, of necessity, treat his wife. But we have rules and policies around how that's done so as to protect both the patient and the physician.

The Chair (Mr. Garfield Dunlop): Thank you very much, Dr. Gabel and Ms. Verity, for your time this afternoon. That concludes your time.

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

The Chair (Mr. Garfield Dunlop): We'll now go to the next deputation, which is the College of Physiotherapists of Ontario, and that's Joyce Huang. Ms. Huang, please come forward and make your presentation. Thank you.

Ms. Joyce Huang: Good afternoon. Thank you very much for the opportunity to address the committee.

My name is Joyce Huang. I'm here representing the council of the College of Physiotherapists—

The Chair (Mr. Garfield Dunlop): Ms. Huang, just speak right into that mike, okay? Thank you.

Ms. Joyce Huang: Sorry.

I'm here representing the council of the College of Physiotherapists of Ontario. I'm the policy analyst on the staff of the college.

The college is a self-regulating body for 7,500 physiotherapists in Ontario. The college is established by the Regulated Health Professions Act and the Physiotherapy Act to register physiotherapists to practise in Ontario and to regulate their conduct in the public interest.

The college would like to offer the following comments on Bill 70, An Act to amend the Regulated Health Professions Act, 1991. In simple terms, the college understands that the bill is intended to give health regulatory colleges the option to decide whether they will develop regulations that, when approved, will exempt their members from the Regulated Health Professions Act's mandatory sexual abuse provisions.

This exemption would only apply in very limited circumstances that would have the effect that the members of colleges that choose to enact this regulation would be permitted to treat their spouses under specific conditions as defined in the bill.

With this understanding of the bill in mind, the college would like to offer its qualified support for the bill. The college believes that an absolute prohibition in the treatment of spouses, which is what the current interpretation of the sexual abuse provisions in the RHP indicates, is overly restrictive, because it does not give professions any discretion to determine the appropriateness of their members' conduct in relation to the treatment of a spouse. As such, the college supports amendments to the RHPA that will give colleges the discretion to determine whether their members are permitted to treat their spouses.

In the view of the college, each profession should come to its own determination as to whether its members are allowed to treat their spouses. Therefore, a legislative model that allows discretion for professions to choose whether or not to exempt their members from the current sexual abuse provisions is the only feasible approach to this issue.

Despite the fact that the college does offer support for the bill, in its current form the bill does have the potential to cause some problems. In particular, the use of certain terms in the bill has the potential to limit its utility and undermine the effectiveness of colleges in their regulatory role.

One of the most troublesome terms used in the bill is the word "spouse." While the bill does include a definition of "spouse" that helps to clarify the meaning of this term, the college strongly supports the position of the College of Physicians and Surgeons of Ontario, who are very concerned that any definition of spouse will undoubtedly lead to challenges for college discipline panels.

These panels will be expected to determine whether a spousal relationship was present in each case and whether there was actually a conjugal relationship. This issue has the potential to sidetrack college discipline panels from their real issues and hinder the ability of colleges to meet their public interest mandate.

In terms of suggestions to manage this issue, the college believes that further clarity on the definition of spouse, which might include recent jurisprudence, may go some way to address this concern.

Another concern about the current drafting of the bill is that the sexual abuse exemption provisions can only apply when certain conditions are met. The first such condition is that the patient must be the member's spouse, and we have just noted previously our concern with the use of the term "spouse."

The second such condition is that the members not engage in the practice of the profession at the time the conduct, behaviour or remark occurs. The college is concerned that this kind of provision is likely to be very difficult for colleges to interpret and enforce. For example, if a spouse who is also a patient attends for care and engages in typical conjugal spousal behaviour during that visit, it will be very difficult for a panel to determine if the spousal exemption should apply because it will be nearly impossible to determine when the health professional began and ceased to engage in the practice of the profession.

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The likely result would be that, once again, college discipline panels will be sidetracked by the need to make determinations as to whether members were practising the profession during the incident under consideration instead of concerning themselves with the more important questions as to whether the conduct occurred and whether the patient suffered as a result.

In terms of suggestions to manage this issue, the college suggests that the bill might benefit from the addition

of a definition that would provide colleges and their members with some clear idea of what engaging in the practice of the profession actually means, and when this activity starts and stops.

Thank you very much for the opportunity to address the committee. I would be pleased to try and respond to any questions that the members may have.

The Chair (Mr. Garfield Dunlop): Thank you so much for your presentation.

We'll now go right directly to the official opposition. Mr. Clark.

Mr. Steve Clark: Thank you very much for your presentation. I guess I've got a couple of questions. So you're aware of the last definitions in the bill, in Bill 68, and you're also aware, I'm assuming, of HPRAC's recommendations. Do you think that Bill 70 has done a better job in those definitions than Bill 68 in the recommendations?

Ms. Joyce Huang: I can't speak to the specifics of that. It is my understanding that the case law in this area is continually evolving, so any definition would be problematic, but I can't speak to the specifics of that.

Mr. Steve Clark: So because you've got qualified support with a couple of caveats, hypothetically, if Bill 70 passed the way that it's currently written, would your college opt in?

Ms. Joyce Huang: I'm not in a position to speak on behalf of my council before they've actually made a decision. I can say that we support, in principle, the ability to have that discretion to make the decision in the first place, but I don't want to presume how they will decide on the issue before they've actually discussed it.

Mr. Steve Clark: Chair, through you, thank you very much for your presentation.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Clark. We'll now go to the third party. Ms. Forster.

Ms. Cindy Forster: Thank you. So how many complaints are made each year, generally, to your College of Physiotherapists?

Ms. Joyce Huang: From memory, I would say less than five in the past three years.

Ms. Cindy Forster: Less than five with respect to sexual abuse issues?

Ms. Joyce Huang: That's right. Yes.

Ms. Cindy Forster: And how many generally?

Ms. Joyce Huang: I don't know the history beyond the past three years.

Ms. Cindy Forster: Were any of those five sexual abuse complaints with regard to the treatment of spouses?

Ms. Joyce Huang: I actually don't know the specifics of those cases; I'm sorry.

Ms. Cindy Forster: Would you be able to provide us with that information?

Ms. Joyce Huang: Yes, I can take the question back to the college and provide you with a response.

Ms. Cindy Forster: Who actually pays for your members' representation when there is a complaint filed and they have to attend a disciplinary hearing at your college?

Ms. Joyce Huang: I believe that's the responsibility of the registrant, and I believe there is insurance coverage available to them, but the college does not—

Ms. Cindy Forster: They have, like, legal and malpractice insurance available to them?

Ms. Joyce Huang: That's right.

Ms. Cindy Forster: We heard earlier from one of the presenters—I think it was the College of Physicians and Surgeons—that victims are actually provided with monies to assist them with representation and attendance costs, perhaps. Is it the same for the College of Physiotherapists?

Ms. Joyce Huang: I don't know the specifics of how we deal with the legal costs for patients, but I believe we are required by the legislation to have a fund to provide counselling for victims of abuse.

Ms. Cindy Forster: Okay, thank you.

The Chair (Mr. Garfield Dunlop): Ms. Gélinas?

Interjection.

The Chair (Mr. Garfield Dunlop): Okay. Thank you to the third party. We'll now go to the government members. Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you for being here. I hear what you're saying about the definition, but you've sort of left it in the—if I could call it the last paragraph of your presentation—that you're asking us to come up with a definition that will help you, but you haven't given us any suggestion, which makes it very difficult. So if you do have a suggestion between now and when we do clause-by-clause, we'd love to hear from you.

Let me just go one step further. Is it possible within the college that if you wanted to define spouses, the start of a practice, the end of a practice and the location of a practice, can you do that within your bylaws and your policies so that all of your members have a clear understanding? For us to do it for each sector of the health sector would be very difficult. So is it possible that we could sort of turn this back to the colleges and, if there is something that is weak in the bill, then you bring it into your own bylaws? Is that possible?

Ms. Joyce Huang: To speak to your first question, we haven't actually considered any specific suggestions as to how we might want the term "spouse" to be defined.

Mr. Bas Balkissoon: Okay.

Ms. Joyce Huang: But if you would like, I can take that question back to our council and our staff to consider and to provide you with a response at a later date.

As to whether we can make bylaws to define those terms ourselves, based on my understanding of how the legislation is written, I believe we would have to be granted that ability by the legislation.

Mr. Bas Balkissoon: You wouldn't be able to do that in your bylaws and come back with the regulation that you would be seeking from the minister?

Ms. Joyce Huang: I would have to reread the legislation, but based on my current understanding, I don't think so.

Mr. Bas Balkissoon: Okay. I just throw it out as a suggestion because it will be very difficult for us to

define it for every sector. It's probably better that each college look at it independently.

If you have a suggestion for spouse that we should probably entertain, you have one week to get back to us. Thank you very much, and thank you for coming here.

The Chair (Mr. Garfield Dunlop): Yes, thank you very much, Ms. Huang. We appreciate your time this afternoon.

ONTARIO COALITION OF RAPE CRISIS CENTRES

The Chair (Mr. Garfield Dunlop): We now go to our next deputation. Our final deputation is the Ontario Coalition of Rape Crisis Centres, and Nicole Pietsch, the coordinator, is here. Nicole, welcome. You have five minutes for your presentation.

Ms. Nicole Pietsch: Thank you. I'll start by saying that I'm not a medical professional with particular expertise on the act itself, but what I do have expertise on is survivors and victims of sexual violence, the dynamics that make folks vulnerable to that and what makes systems less or more effective in supporting victims of sexual violence.

Our coalition is a network of 25 sexual assault centres from all across Ontario. We deal with recent as well as historical cases of sexual violence. Our thoughts on the HPRAC report and the notion of the spousal exemption are as follows.

We feel that the report is flawed because it relied on many myths around sexual violence. The myth, for example, that false allegations of sexual abuse are commonplace is ever-present in the report. It allies with social misconceptions about sexual assault that suggest that folks who report sexual assault often lie for their own benefits or make up stories because they have regrets. False allegations of sexual assault are not a common problem in society. What is a more common problem is our incapacity or incompetence at being able to support people who come forward to talk about stories of violation and to have systems that are competent at holding offenders accountable.

In reality, the majority of sexual assaults are simply not reported at all, and those that are are not always resolved through criminal justice and other systems. So we recommend that, in the place of a spousal exemption, the Regulated Health Professions Act legislation instead identify clear processes and be confident in the capacity of these processes to adequately identify situations of sexual violence. This might include reviewing your definitions; your inquiries, complaints and reports committee processes; and other processes around definitions and transparency.

We believe that the primary purpose of a zero-tolerance policy is to prevent sexual abuse by health care professionals, but the purpose of the policy in question is more around prioritizing the professional, particularly a professional who chooses to treat a spousal patient. This sort of negates the idea of a zero-tolerance policy, to have an exemption.

What are the implications? A blanket exemption for spouses from the definition of sexual abuse can result in new opportunities for health professionals who are accused of sexual abuse to attempt to raise a defence of their own behaviour.

As an example, did you know that the majority of sexual assaults in Ontario are perpetrated by someone who is known to the victim? This means that acquaintances, friends, professionals, dates or relatives are more likely to use tricks, verbal pressure, threats or victim-blaming ideas in order to proceed with sexual coercion. This could be saying things like, "You knew you wanted this," "If anyone found out about this, you would be in trouble," or "This is our special relationship."

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I'm saying this because in the criminal justice system today, it's not enough for a victim to identify that sexual contact occurred between her and the offender. Instead, she must prove that he or she did not agree—that is, consent—to the sexual contact. How do you do that unless you have witnesses?

Instead of testifying that sexual abuse did not occur within a professional-patient relationship, what we foresee is that accused professionals may simply argue that sexual contact did occur, yet some type of a spousal relationship or some degree of a relationship concurrently existed. Do we want a Regulated Health Professions Act to make room for this sort of complicity—that is, complicit in, "You know you wanted this," or "This is a special kind of relationship"? From our perspective, it's a simple answer to a more complex question, where there is room for making situations of violence, in fact, look like they were kind of okay.

Last, within the consultation process we know that the majority of those consulted were in fact professionals or their spouses. There are only notes of one victim or survivor advocate's group who had a voice in that process. I have to say that the only reason our organization is here today is because it was brought to light to us from another regulated body of professionals.

As a counsellor at a rape crisis centre for many years, I've heard many stories of health professionals who pursued a patient sexually, typically a young person with a history of childhood abuse, and then framed this dynamic as a personal relationship that was completely independent of their patient-professional rapport. I think that's problematic when we look at what is being proposed with this bill and the spousal patient.

In closing, I just want to thank you for letting me be here, and I'm also open to any of your questions.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much, Ms. Pietsch. We'll now go to the third party. Ms. Gélinas, you have three minutes.

M^{me} France Gélinas: Thank you for coming. You've been in the room for a little while. You've listened to some of the other testimony. It is clear that a college is there to protect the public and that some colleges would very much like to be able to treat their spouse. How big of a risk is there that this will result in a decrease of protection of the public?

Ms. Nicole Pietsch: I think that the attempt to create a blanket exemption for spouses in respect to sexual abuse is more of a very simple surface attempt to remove an accidental sort of implication. From our perspective, the more risky situation is those folks who are at risk or have experienced sexual abuse at the hands of a professional and are now going to have to argue or prove a different element of the relationship in order to state, let's say, that this was or wasn't consensual, that I was or wasn't a party to that, that it was abuse as opposed to consensual sex, which I think is what we see as problematic in a lot of other justice systems that deal with sexual assault.

M^{me} France Gélinas: In your view, has the law, the way it has been written—has it protected the public well, and has it protected women?

Ms. Nicole Pietsch: Do you mean the current zero-tolerance policy?

M^{me} France Gélinas: Correct.

Ms. Nicole Pietsch: I have to say, I mean, I would not be the person receiving those complaints, but I think that for people—women and men who I've worked with who did experience sexual violence at the hands of a health professional—to know that there is a process that's transparent and that's based on some very strong foundation around a zero-tolerance policy, it's meaningful to them. It encourages people to consider, "Am I going to come forward or aren't I?" It also helps them understand their rights in the process. So I think that what is currently in place is strong.

M^{me} France Gélinas: Has it served us well? Has it been useful?

Ms. Nicole Pietsch: Yes, I think so. It's important to have a policy as a foundation that suggests what you value and what you put first. I think the question for this committee is, what are you going to put first? Is it a minority of professionals who choose to treat spouses or are you going to consider the larger protective base that you have the potential to give to the public? That, in my opinion, is more important.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Garfield Dunlop): Okay, thank you very much to the third party. We'll now go to the government members. Mr. Balkissoon?

Mr. Bas Balkissoon: Thank you for your input. I just want to follow along the lines of my colleague from the NDP. In terms of listening to all the other deputants and how many practitioners they have—plus, I can only guesstimate how many patients they have. When the questions were asked around the room as to, "How many complaints you have had in the last two to three years?", they were very minuscule. Do you really see that if we open it up to just add the additional patients being their spouse, that number will significantly rise?

Ms. Nicole Pietsch: Do you mean, do you think you'll get more complaints on account of having that?

Mr. Bas Balkissoon: That's right, because we've just only added spouses across the province, which is a very small number of additional patients.

Ms. Nicole Pietsch: Yes—

Mr. Bas Balkissoon: Because I'm trying to absorb your concern with—our job here is to calculate the risk factor. I'm trying to gauge your concern in terms of risk factor and how significant it is.

Ms. Nicole Pietsch: Yes. In terms of getting more complaints, that is hard to project. I think you have less to worry about in terms of allegations or complaints that are not real. I think that, if anything, having an exemption for spouses might mean somebody who was a spouse and was sexually violated in that context would choose not to engage in this process. I think it also means there's more onus on the victim to be able to speak to the fact that that relationship was wrong or unethical.

There's a different element when you say, was it a part of a relationship? If that occurred in the context of a relationship, it might create more complexities for a survivor to be able to speak to how, in fact, it was sexual violence as opposed to a consensual relationship.

Mr. Bas Balkissoon: But that person would have access to the same processes that exist today for a regular patient, so how can it be any different?

Ms. Nicole Pietsch: Sorry, I'm not sure I understand the question.

Mr. Bas Balkissoon: Well, if I'm a spouse, and I want to complain, the complaint process is the same as an existing patient, so it really changes nothing.

Ms. Nicole Pietsch: Well, I'm looking at it from a situation outside of that, which is that having a spousal exemption could be used as a defence for someone who, in fact, did do something that was misconduct—right?—for example, to say, "No, that person was in a conjugal relationship with me." Part of that goes back to having a definition of a spouse and what that comes down to. That's an additional place where you could have some protection. I guess what I'm thinking of is, often we hear of victims who, let's say, were vulnerable emotionally, they were treated by a professional, and in the context of being treated it also turned into a sexual relationship, which is unethical; that's sexual abuse. But it could also be described by a lay person as just a relationship that was consensual. I think it's problematic that these things can be easily confounded. I know that's not the intention of it.

Mr. Bas Balkissoon: But in the legislation that's in front of us we're defining those relationships and who our spouse is. So again, I go back to you. Do you see the risk factor as being very much higher or not?

Ms. Nicole Pietsch: I think I'd agree with what the College of Physicians and Surgeons was saying, that this diminishes the foundation of a zero-tolerance policy on that principle. Can I say numerically how many more people will be at risk? I can't. But I think comparatively it would be wise to look at other systems that are meant to support victims of sexual assault, and the criminal justice system is a good example, wherein proving the relationship between the alleged offender and the alleged victim becomes a huge piece of the case and makes it almost impossible to find a conviction.

The Chair (Mr. Garfield Dunlop): Thank you very much. Now we'll go to the official opposition. Ms. Elliott?

Mrs. Christine Elliott: Ms. Pietsch, I'd just like to thank you very much for coming and making a presentation today. As health critic for the PC Party, I certainly appreciate having been copied on your correspondence. We certainly do take it very seriously and take it into consideration. Thank you.

Ms. Nicole Pietsch: Thank you.

The Chair (Mr. Garfield Dunlop): There's no other questions? Okay. Well, ladies and gentlemen, that concludes the hearings today on Bill 70.

The schedule right now is to meet next Wednesday, October 9. We have clause-by-clause at that point, so amendments have to be in on the 8th, apparently by noon. On top of that, I want to know—right now we have scheduled between 12 p.m. and 3 p.m.—

Mr. Bas Balkissoon: Make it 1 o'clock.

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Bas Balkissoon: Make it 1 o'clock.

The Chair (Mr. Garfield Dunlop): That's why I was—would anybody like to meet at 1 o'clock?

Mr. Steve Clark: For clause-by-clause?

The Chair (Mr. Garfield Dunlop): Clause-by-clause. *Interjection.*

The Chair (Mr. Garfield Dunlop): Okay. Have we got agreement with everyone on that?

Mr. Bas Balkissoon: Yes.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much, everyone, for attending today. The meeting is adjourned until the 9th at 1 o'clock. Thank you very much, everyone.

The committee adjourned at 1441.

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Professions Amendment Act
(Spousal Exception), 2013

Comité permanent de l'Assemblée législative

Loi de 2013 modifiant la Loi
sur les professions
de la santé réglementées
(exception relative au conjoint)



Chair: Garfield Dunlop
Clerk: Trevor Day

Président : Garfield Dunlop
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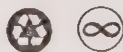
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Wednesday 9 October 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Mercredi 9 octobre 2013

*The committee met at 1304 in committee room 1.*REGULATED HEALTH
PROFESSIONS AMENDMENT ACT
(SPOUSAL EXCEPTION), 2013
LOI DE 2013 MODIFIANT LA LOI
SUR LES PROFESSIONS
DE LA SANTÉ RÉGLEMENTÉES
(EXCEPTION RELATIVE AU CONJOINT)

Consideration of the following bill:

Bill 70, An Act to amend the Regulated Health Professions Act, 1991 / Projet de loi 70, Loi modifiant la Loi de 1991 sur les professions de la santé réglementées.

The Chair (Mr. Garfield Dunlop): Thank you very much, everyone. We'll call the meeting to order. We're here to discuss clause-by-clause of Bill 70, An Act to amend the Regulated Health Professions Act, 1991. I'm going to ask each of the caucuses if they'd like to have opening remarks before we go right into clause-by-clause. I do understand there are no amendments today.

I'm going to start with the official opposition. Mr. Clark, do you have any comments or an opening statement?

Mr. Steve Clark: Thanks, Chair. I'm just going to make very brief comments. Certainly I want to welcome the members of the ODA who are here today. I know it's their annual lobby day, and I'd certainly encourage members to come to their event today in the Legislature. I'd also like to thank all the deputants who appeared last Wednesday at committee and who made some very insightful comments.

I hope that if this bill does ultimately move forward and receive third reading and passage in the House, every regulatory body would take very seriously the comments that were made, not just here in the Legislature but also as part of the review process that ultimately led to the tabling of Bill 70.

So I take the comments that we received very seriously, and I hope that all the regulated health professions would carefully review the exception that this bill would provide them and to put those safeguards in place to protect patients of all the professions in the province of Ontario.

Thank you, Chair, for giving me this opportunity.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Clark.

Anybody from the third party? Ms. Forster.

Ms. Cindy Forster: Thank you very much, Chair. I also want to thank the Ontario Dental Association, the chiropractic association; I think the College of Physiotherapists was here, as well as the Ontario Medical Association and the rape crisis centre.

Although the different colleges from the regulated professions act have differing views, I can tell you that it was quite a learning experience for me and my colleagues listening to that. Clearly, we heard the zero-tolerance message that is important to each one of those colleges. If it does receive third reading, we in the NDP anticipate and expect that this legislation will be treated with the utmost caution and respect by those colleges who determine that they want to actually exercise the exception. I think the pieces of information that came to us about the costs that can be incurred by individuals and colleges certainly were an important piece of this as well.

Having said that, we are going to support it here today, and we look forward to it coming to third reading.

The Chair (Mr. Garfield Dunlop): Okay. From the government members, Mr. Crack.

Mr. Grant Crack: Thank you very much, Mr. Chair. I'd like to congratulate Mr. Clark on bringing forward the bill. I also thank all the stakeholders that have participated in the public hearings. We look forward to moving the bill forward.

But I do have a point of order: I was just wondering if I could ask if we could put a motion before we get meeting on the—

The Chair (Mr. Garfield Dunlop): We have a what?

Mr. Grant Crack: Put a motion forward concerning some scheduling—

The Chair (Mr. Garfield Dunlop): Is it a motion to do with this bill?

Mr. Grant Crack: It is not relevant to this particular bill.

The Chair (Mr. Garfield Dunlop): No. We'll do it after the clause-by-clause, then.

Mr. Grant Crack: Okay. Thank you very much, Chair.

The Chair (Mr. Garfield Dunlop): Thank you.

Mr. Clark, you had one further comment?

Mr. Steve Clark: Well, I just want to also—I was remiss in not acknowledging with thanks the efforts from the Ministry of Health. I know that some people may not recall that this bill has changed in a couple of different

forms, and the final change was done when my staff and myself met with the Ministry of Health and worked with them on the final version of Bill 70. So I do want to acknowledge with thanks to the minister, the Honourable Deb Matthews, for her assistance in helping me with this final draft that was acceptable to her as minister. So I want to acknowledge and thank her.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Clark. Anything else from anyone? Okay, we'll go right into the clause-by-clause.

I'm going to put them together here, sections 1 to 3. Shall sections 1 to 3 carry? That's carried.

Shall the title of the bill carry? Carried.

Shall Bill 70, as amended, carry?

The Clerk of the Committee (Mr. Trevor Day): Just Bill 70—no amendments.

The Chair (Mr. Garfield Dunlop): Sorry. I apologize. I should have brought my glasses.

Shall Bill 70 carry? Carried.

Shall I report the bill to the House? Yes? Okay. Thank you very much, everyone. We're done with that.

Now—

Mr. Steve Clark: I move adjournment—

COMMITTEE BUSINESS

The Chair (Mr. Garfield Dunlop): Excuse me. I think we had a motion first, though.

Interjection.

The Chair (Mr. Garfield Dunlop): I did offer Mr. Crack an opportunity for a motion. Go ahead, Mr. Crack.

Mr. Grant Crack: Thank you very much, Chair. It's just concerning the scheduling of committee hearings and clause-by-clause following Wednesday, December 4. I would like to put the motion forward now, if that would—and I can pass copies out to all the members.

Before starting, I'd just like to point out that during the House it was brought forward by the member from Nickel Belt that seeking unanimous consent for second reading—it has to do with Bill 106, which is the French Language Services Amendment Act.

The Chair (Mr. Garfield Dunlop): Okay. Do you want to just read that out, Mr. Clark?

Mr. Grant Crack: I move that upon reference of Bill 49, Protecting Employees' Tips Act, 2013, to the House for third reading;

That the Clerk, in consultation with Chair, be authorized to arrange the following with regard to Bill 106, French Languages Services Amendment Act (French Language Services Commissioner), 2013:

(1) One day of public hearings and one day of clause-by-clause consideration, commencing on the first sessional day after Bill 49, Protecting Employees' Tips Act, 2013, has completed clause-by-clause consideration, during its regularly scheduled meeting times;

(2) Advertisement on the Ontario parliamentary channel, the committee's website and the Canadian News-Wire;

(3) Witnesses be scheduled on a first-come, first-served basis;

(4) Each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members;

(5) The deadline for written submission is 3 p.m. on the day of the public hearings;

(6) That the research office provide a summary of the presentations by 5 p.m. on Friday of the same week following public hearings;

(7) The deadline for filing amendments with the Clerk of the committee be 12 noon on the day preceding clause-by-clause consideration of the bill.

The Chair (Mr. Garfield Dunlop): Okay. You've all heard that motion by Mr. Crack. Are there any questions on it?

Mr. Steve Clark: I'd like a 20-minute recess before we vote.

The Chair (Mr. Garfield Dunlop): Before we vote?

Mr. Steve Clark: Yes.

The Chair (Mr. Garfield Dunlop): Is there any debate on this before we recess? Okay. Twenty-minute recess.

The committee recessed from 1312 to 1332.

The Chair (Mr. Garfield Dunlop): Okay. Thanks very much for the 20-minute recess. Mr. Crack has moved the motion. We've debated it.

Interjection.

The Chair (Mr. Garfield Dunlop): Yes?

Ms. Lisa MacLeod: May I just add a comment?

The Chair (Mr. Garfield Dunlop): It's just the vote at this point. Okay, so we've heard the motion read. All in favour of the motion?

Ms. Lisa MacLeod: Recorded vote.

The Chair (Mr. Garfield Dunlop): Okay, recorded vote, first of all.

Interjection.

The Chair (Mr. Garfield Dunlop): I'm sorry. I apologize; I thought we would have that opportunity.

Okay. So we've got who's in favour. All those opposed? Okay. It's carried.

Any other business of the committee today? Okay.

Mr. Bas Balkissoon: We're adjourned?

The Chair (Mr. Garfield Dunlop): Oh, yes. Would you like to go?

Interjection.

The Chair (Mr. Garfield Dunlop): Two weeks from today, we'll be starting at 12 o'clock with Bill 55. We will have lunch available prior to the meeting, okay?

Mrs. Amrit Mangat: At 12 o'clock?

The Chair (Mr. Garfield Dunlop): At 12 o'clock. We've got a full day, the next two, on Bill 55—two full days.

Yes, Ms. MacLeod?

Ms. Lisa MacLeod: I just wanted to say, with respect to the previous vote, that I was happy to support the motion moving Bill 106 forward. That said, I think that the challenge that we have moving forward, and I would encourage the government to adhere to this, is to ensure

that—there are subcommittees set up so that we can do that. That is why the subcommittee was struck, and I suspect that it would be much easier for us to move legislation forward if that subcommittee actually met.

The Chair (Mr. Garfield Dunlop): Yes, and we'll probably have a—

Ms. Cindy Forster: If we're still entertaining debate after we're adjourned, we also fully support the bill; however, this process is circumventing the subcommittee process. This item wouldn't even get on the agenda for

Legislative Assembly until, probably, December 3. There was lots of time for the subcommittee to meet. In fact, this bill was probably France Gélinas's bill to start with, along with all the others that she has brought forward. That was why we chose to abstain from that vote: because we're not following process.

The Chair (Mr. Garfield Dunlop): Okay. Anything else? Okay. The meeting is adjourned until two weeks from today.

The committee adjourned at 1335.

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Mr. Garfield Dunlop (Simcoe North / Simcoe-Nord PC)

Vice-Chair / Vice-Présidente

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Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Steve Clark (Leeds–Grenville PC)

Mr. Grant Crack (Glengarry–Prescott–Russell L)

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of Ontario**

Second Session, 40th Parliament

**Assemblée législative
de l'Ontario**

Deuxième session, 40^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 23 October 2013

**Journal
des débats
(Hansard)**

Mercredi 23 octobre 2013

**Standing Committee on
the Legislative Assembly**

Stronger Protection
for Ontario Consumers Act, 2013

**Comité permanent de
l'Assemblée législative**

Loi de 2013 renforçant
la protection
du consommateur ontarien

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Wednesday 23 October 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Mercredi 23 octobre 2013

*The committee met at 1202 in committee room 1.*STRONGER PROTECTION
FOR ONTARIO CONSUMERS ACT, 2013
LOI DE 2013 RENFORÇANT
LA PROTECTION
DU CONSOMMATEUR ONTARIEN

Consideration of the following bill:

Bill 55, An Act to amend the Collection Agencies Act, the Consumer Protection Act, 2002 and the Real Estate and Business Brokers Act, 2002 and to make consequential amendments to other Acts / Projet de loi 55, Loi modifiant la Loi sur les agences de recouvrement, la Loi de 2002 sur la protection du consommateur et la Loi de 2002 sur le courtage commercial et immobilier et apportant des modifications corrélatives à d'autres lois.

The Chair (Mr. Garfield Dunlop): Welcome, everybody. We'll call the meeting to order. We've got our quorum here now.

I just want to notify everybody in the audience that we are working over the lunch hour, so some of the committee members might be grabbing a sandwich or something here and eating while you're making your deputations.

Just so you know, we're here between now and 3 o'clock—it's part of a programming motion—and we will have 15 minutes for each presenter. That, actually, gives us a minute to spare. We have five minutes for your presentation and three minutes for each of the caucus members, and I will be watching this like it's an overtime playoff game.

ONTARIO ASSOCIATION OF CREDIT
COUNSELLING SERVICES

The Chair (Mr. Garfield Dunlop): With that, I'd like to welcome our first presenter, and that's Ontario Association of Credit Counselling Services, and Henrietta Ross, the executive director. Henrietta, it's your turn to start. You've got five minutes. Thank you very much.

Ms. Henrietta Ross: All right. Thank you very much, Mr. Chair, and good afternoon, everyone.

I'm here today representing not-for-profit credit counselling and our credit counselling member agencies in Ontario. We are all registered charities. Our members are community-based social service agencies, who pro-

vide consumers with confidential financial counselling services.

Specializing in helping people to deal with and overcome serious debt challenges is our core competency. Helping people to once again flourish financially is difficult but critically important, and there's no quick fix. It takes time and expertise to improve and sustain financial health.

We started our association with our membership in credit counselling in the 1960s. Some of you may remember that's when the Chargex card was born. That's the time that people started to receive access to instant financial credit—personal credit. In those early days, consumers were given a \$300 credit limit, for the most part. Look at us today: Credit limits, on average, are between \$5,000 and \$10,000, and for a lot of people today, putting gas in their car and paying their cellphone bill and Internet is higher than \$300 a month.

Our association and our members have been around, helping consumers to successfully deal with their debt, for a really long time: 44 years. We know a lot about helping consumers to manage their debt. Over the last 10 years alone, we've helped 1,437,500 people in Ontario.

In recent years, our counsellors have heard hundreds of complaints from consumers about debt settlement companies—and heart-wrenching stories.

Look at what happened to Tom. Tom lost what he paid in fees to a debt settlement company of over \$2,500. The company cancelled his program with them without his knowledge, and did not acknowledge his messages when he received legal notice from his creditors. The original amount of his debt was \$11,789. From the supposed settlement amount that never happened, it was to be about \$4,700. He sought assistance from one of our member agencies, who helped him get back on track. But only after Tom was featured on Global TV, telling his story, did the debt settlement company try to make amends for the services he never got from them.

Or look at what happened to Susan. Susan's situation was with another debt settlement company. She was originally paying into an official consumer proposal with the bankruptcy trustee when she was solicited by the debt settlement company, who told her that they could do a better settlement for her, so she switched and she annulled her consumer proposal. She started to pay the debt settlement company \$596 a month, until she received a garnishment on her pay from the Kingston Community

Credit Union and was served legal documents from the Bank of Montreal. When this happened, she became frantic and called our member agency in Kingston for assistance.

And last, here's what happened to Donna: Donna had a \$7,500 debt and paid \$1,600 in fees to a debt settlement company. She saw no headway as her creditors were not being paid, and she continued to receive calls from them. The debt settlement company told her that the funds she paid them were for their fees. Her monthly payments were \$200 a month, and the fees to the company were \$150. She contacted us as well because she wasn't getting anywhere.

These are all people like you and me, people who try to do the right thing, but sadly, people who are hoodwinked into thinking that a debt settlement company could somehow live up to empty promises of eliminating 80% or 90% of your debt and then not communicating with your creditors. We know that these kinds of promises don't deliver relief; instead, they deliver heartache.

Bill 55 will help to defend against companies who give the allure of misleading and empty promises, of easy insolvency relief for consumers. These companies cloud and tarnish the integrity and reputation of the personal financial counselling industry through their disingenuous credibility and lack of legitimate qualifications or experience, delivering little, if any, relief for consumers.

We, our association, our members and you, this committee, share the common objective and motivation of strengthening protection for consumers in Ontario. Bill 55 will help to do just that, by providing that protection for people who are struggling with their debt and trying to achieve sustainable financial health.

We strongly support Bill 55 as it's written. We're delighted to work with you and work with you in the future toward building regulations that can help with the implementation of the bill. I've brought with me today for you a package that gives you more information and a package of our research.

Credit counselling services outperform average Canadians—individuals who receive our counselling through one of our agencies and a certified counsellor without doubt demonstrate better performance than the average Canadian. So you see, it's not just about paying the money back; it's about the education that people receive in the process. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much, Henrietta. Now we'll go to the official opposition. Mr. McDonell, do you have questions?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): You have three minutes for this round of questions.

Mr. Jim McDonell: Do you have any issues with the bill the way it's written?

Ms. Henrietta Ross: No, we do not.

Mr. Jim McDonell: You do not? How do your members get paid, generally?

Ms. Henrietta Ross: I'm sorry?

Mr. Jim McDonell: Is it simply through funds from the debtor, or do you receive from both ends?

Ms. Henrietta Ross: You mean, how do credit counselling agencies get paid?

Mr. Jim McDonell: Yes.

Ms. Henrietta Ross: They get paid partly through creditor donations, but they also get paid through funders like the United Way, because all of our agencies are social services. They are not for profit. They're registered charities and so they look for funding across a variety of avenues.

Our agencies used to be funded by the Ontario government. Back in the 1990s that funding was eliminated, so our agencies lost 60% of their funding. From that time forward, they've needed to rely on alternative funding methods. Creditors are part of the funding formula, but only a portion.

Mr. Jim McDonell: Do you receive any funds from the debtors themselves or the people lending money?

Ms. Henrietta Ross: Yes. Debtors do pay fees; they're very nominal. If the debtor cannot afford to pay a fee, the fee is always waived.

Mr. Jim McDonell: Okay.

The Chair (Mr. Garfield Dunlop): Mr. Barrett.

Mr. Toby Barrett: Maybe just further to that, could you briefly explain the contrast, then—you've just explained how your organization's people are paid compared to how the debt people are paid.

Ms. Henrietta Ross: Absolutely. I think one of the fundamental differences is that the motivation around how we're paid is very different. Because our organizations are not-for-profit charities, their entire motivation is not to make profit from the vulnerable consumer, and so fees are paid by the consumer in a very, very minimal way. The debt settlement company is paid totally by the consumer, and that's why some of these fees are just absolutely extraordinarily high.

1210

The business model for a debt settlement company relies on the consumer. Those monies are gathered upfront. The consumer is advised, "Don't deal with your creditors," so no communication takes place, and after a certain length of time, some money is pooled together. It's at that time, three or four years down the road, that the debt settlement supposedly tries to achieve a settlement on behalf of the consumer, and very often that doesn't happen. So the fees are gone, no service is rendered, and the consumer is now actually way further behind. They've got the original debt they started with, plus they have now paid all this extra fee money for which they have no return.

The Chair (Mr. Garfield Dunlop): Okay, and that's your time. We'll now go to the third party. Mr. Singh, you've got three minutes.

Mr. Jagmeet Singh: Sure, thank you. What percentage do creditors fund your organization?

Ms. Henrietta Ross: Creditors don't fund the association at all. They do fund our member agencies, and the amount of money funded really does vary depending on the year. It could be in the neighbourhood of 50% or 60%.

Mr. Jagmeet Singh: So 50% or 60% of your member agencies are funded by creditors.

Ms. Henrietta Ross: They could be. It depends on the mix of debt settlement programs that the agency has and the type of service it provides.

Mr. Jagmeet Singh: And these creditors include banks and credit card companies?

Ms. Henrietta Ross: Actually, it includes all credit granters.

Mr. Jagmeet Singh: Okay. And do you disclose this anywhere, the amount that your member agencies are being funded by—

Ms. Henrietta Ross: Oh, absolutely. It's very openly disclosed with consumers.

Mr. Jagmeet Singh: Okay. Would you have an issue with increased disclosure of that so that people are aware of what they're getting into?

Ms. Henrietta Ross: Absolutely not. In fact, we relish transparency.

Mr. Jagmeet Singh: What percentage of the debts do you normally settle? To make that clearer, if a debt is \$100, what percentage of that debt do you normally settle?

Ms. Henrietta Ross: One hundred dollars. In fact, if I just may say, our services are not settlement company services. There's a very, very big difference. The debt that a consumer brings to bear with a counsellor—let's say it's \$1,000. The counsellor works with the debtor, the client, and the credit community to arrive at other kinds of arrangements to repay that full debt.

Mr. Jagmeet Singh: Okay. So basically, the credit counselling is to pay back the full amount. You're not—

Ms. Henrietta Ross: It's the full amount, and it's a totally voluntary program. It's different than a debt settlement company. There is no contract, so it's totally voluntary, and it's also a voluntary process between the credit-granting community and the consumer.

Mr. Jagmeet Singh: And how are you regulated currently?

Ms. Henrietta Ross: The Ontario association has its own bill with the Ontario government, called "an act respecting the Ontario association of credit counselling services." We're the only credit counselling organization in the country that has such a piece of legislation.

Mr. Jagmeet Singh: Okay. And where could one find the amount that creditors are funding these organizations?

Ms. Henrietta Ross: I can send it to you.

Mr. Jagmeet Singh: Okay. Would you be able to table that with this committee?

Ms. Henrietta Ross: Certainly. As I said, our services are totally transparent. We provide whatever information you need, and we also are completely transparent with the customers that our agencies help. We don't believe in not communicating with anyone. We want everyone to know and have full disclosure over what the process is, and I think that's one of the major differences.

Mr. Jagmeet Singh: And just my last question—we're running out of time. Thank you. In terms of your—

The Chair (Mr. Garfield Dunlop): Make it quick, here.

Mr. Jagmeet Singh: Yes—your bias, have you ever been approached on the fact that you're paid by or you're funded by creditors but you're providing services to consumers and how that affects your ability to provide unbiased advice?

Ms. Henrietta Ross: Well, in fact, that has been brought up before, and I find it very surprising, because our counsellors and our whole organization are completely objective. The fact that creditors fund through donations is actually a red herring. We provide services whether creditors provide funding or not. You'd be surprised to know that we repay debt through the programs of an agency, and there are many creditors who don't pay anything, even though they're getting the service.

The Chair (Mr. Garfield Dunlop): Okay. We now have to go to the government members, Henrietta.

Ms. Henrietta Ross: Okay.

The Chair (Mr. Garfield Dunlop): Now to the government members. Thank you. Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much. Thank you for appearing before the committee today.

Ms. Henrietta Ross: You're welcome.

Mr. Vic Dhillon: Can you describe a typical client and, if possible, the steps that are taken once that client comes through your door, from the beginning to the end?

Ms. Henrietta Ross: Sure; absolutely. The first thing that happens is, the client comes to the credit counsellor, and the credit counsellor sits down the client to understand what their circumstance is. There's full disclosure from the client to the counsellor about what they're faced with: full disclosure around the amount of debt that they have, the kind of income they have, the kind of deficiency toward paying their debt that's there. The entire household circumstance is revealed to the counsellor.

The counsellor, with the client, then looks at what their budget is and what their possibility of repayment could be. Then they set about, with the client's permission, to review a number of options that could help that client. An example would be that the client may be able, after talking to the counsellor, to learn how to reorganize their finances to pay back what they owe on their own, or they could ask the counsellor to help them with a debt repayment plan, which the counsellor will do. Perhaps it's a case where insolvency looms, and there just aren't the resources to repay the debt, in which case the individual will be advised of options under the bankruptcy act—

Mr. Vic Dhillon: How would you charge this client?

Ms. Henrietta Ross: At that point, there is no fee. The fees come into play if there happens to be a debt management repayment plan, and that happens 10% or 12% of the time.

If there's a debt repayment plan and the counsellor is facilitating a program with the credit granters, that's when money would be paid by the credit granter.

Mr. Vic Dhillon: Your members: Can you give a little bit more detail? I know you've been asked this before

about the source of funding for your members. Do you proactively make that clear in your offices?

Ms. Henrietta Ross: Absolutely, we do.

The Chair (Mr. Garfield Dunlop): You have about 20 seconds left in this round.

Ms. Henrietta Ross: Okay.

Mr. Vic Dhillon: How would you do that?

Ms. Henrietta Ross: It's done through discussion; it's done through written documentation. Our clients are very clear in terms of the amount of creditor support that's received. It's important, from a co-operation point of view. A voluntary repayment program won't work unless all of the credit granters will assist in the process to help the consumer.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much, to the government members. Henrietta, thank you very much for your time this afternoon.

Ms. Henrietta Ross: You're welcome.

OCCA CONSUMER DEBT RELIEF

The Chair (Mr. Garfield Dunlop): We'll now go to the next deputation, OCCA Consumer Debt Relief. We have Ed Portelli, the owner, here. Mr. Portelli, welcome to Queen's Park.

Mr. Ed Portelli: Thank you.

The Chair (Mr. Garfield Dunlop): You have five minutes for your presentation.

Mr. Ed Portelli: Okay. I thought I had a few more minutes, so I'm going to try to cut it down.

The Chair (Mr. Garfield Dunlop): Okay. We'll let you know when there's a minute left, okay?

Mr. Ed Portelli: Okay.

I've actually provided everyone with a copy of the response submission to the ministry, and this relates to that.

OCCA is the first and longest-standing debt relief firm in Ontario, as far as for-profit companies, being fully licensed since November 2001. Since inception, we have continually spoken out against firms in this industry which employ processes that are not in the best interest of the consumer.

The proposed regulations of Bill 55 as they pertain to debt settlement contract guidelines, full disclosure, refund and cancellation policies, penalties for false advertising and especially the elimination of joint bank accounts are long overdue and are supported by OCCA and our members.

It's of the utmost importance to our members that any new legislation serves the purpose of eliminating bad practices in the industry while making certain that consumers are not stripped of any rights. As such, I'd like to emphasize a concern with section 16.6 of the proposal. To paraphrase, section 16.6(1) says that no firm that provides debt settlement services shall accept payment in advance of providing services.

It's important to ensure that this committee provides the Ministry of Consumer Services with a more clear definition of what constitutes the provision of services.

To provide the committee with greater clarity in this area, and to help avoid any potential legal or constitutional injustice to consumers, such as the ones instituted in Alberta and Manitoba, I'd like to refer to section 2 of the current proposal from the Ministry of Consumer Services in its debt settlement consultation.

Section 2, as proposed, will eliminate certain bad practices in this industry. However, it will also relieve consumers of their constitutional right to choose a representative they feel best suits their needs.

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To clearly illustrate this, I will split the section into two, and I'll read you the section. Debt settlement services operators would only be paid for actual results rather than efforts to obtain results. The intention of this part is clearly to prevent upfront fees from debt settlement firms that offer guaranteed future results. These firms use a practice known as debt pooling. There is a very good description in the handout that I gave you of the difference between our firm, as an example, and debt pooling.

We've seen more and more of this show up; Canadian and American firms are using it. Limited—if, actually, any—work is done, as has been stated by our friend here from non-profit credit counselling. The debt-pooling model includes all three of the techniques which are the major causes for concern in this industry.

It is our submission that the debt-pooling model is the major, if not entire, cause of complaints in Ontario. Fees must be fully paid up front, prior to entering a savings plan and prior to any negotiations taking place with a creditor. Consumer savings are deposited into joint accounts; only the debt-pooling firm has access to those. Fees are determined based on a guaranteed settlement prior to any negotiations taking place.

This section would put a stop to the debt-pooling model, but doesn't take into account other models that offer valuable efforts and services. Our process, as an example, with OCCA is called the OCCA Informal Consumer Proposal. It has been used successfully for consumers, co-operatively with creditors, and has been virtually complaint-free for almost 12 years.

The process begins immediately. They have a budget created. There is financial education and planning. We formulate a debt-relief strategy. We handle all calls and letters from creditors. There is ongoing protection in case of hardship, so in the case of non-profit, where if you don't have enough money to maintain they offer you bankruptcy as a solution, we will still offer you protection to give you the opportunity to make an arrangement down the road. It gives you a lot more opportunity.

We also have licensed paralegals who are included with our service. All court costs—everything—is included in a one-time arranged fee. The fee is paid over the course of the contract.

The Chair (Mr. Garfield Dunlop): One minute. You have a minute left.

Mr. Ed Portelli: One minute?

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Ed Portelli: All right. Let me skip to the other part that I have.

Just to put that in layman's terms, just as a lawyer or a paralegal routinely charges fees for service with no guarantee of a specific result, fees can be charged and collected so long as the payment arrangements are clearly defined and services are provided as agreed. That's what we believe as far as what an upfront fee shouldn't involve. If a firm promises a specific result, such as an injury attorney or many of these debt-pooling firms, then yes, the fees should only be collected when the work is done.

The other problem I have with section 2, part 2, is that the proposed rule will not allow any fees until a specific settlement offer is accepted by the debtor and their creditor. At first glance, this appears reasonable. On closer review, it will unduly and unfairly empower creditors over consumers. The rule as it is currently written would demand that the creditor must be satisfied with a payment arrangement prior to any firm being able to charge a fee.

So, at this point, this section would eliminate the ability for people to choose their own firm, because essentially what happens is that if the creditor doesn't accept even a fair or reasonable offer, we would not be able to provide a service for a fee; hence, there are no rules, there are no regulations for what would be a reasonable offer, so all it would take is for creditors en masse to make the decision that they are not going to accept offers from a firm, and that firm would have to close. That unduly empowers these creditors in these civil matters.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the third party. You have three minutes, Mr. Singh.

Mr. Jagmeet Singh: Sure; thank you. So, as I take it, your issue is that there are some bad performers or bad actors as opposed to an entirely flawed system. Is that correct?

Mr. Ed Portelli: There are some bad actors, but the majority of them come from the bad process, which is debt pooling, as credit counselling has identified.

Mr. Jagmeet Singh: That was my next question. So the key issue is a flawed model, I guess, and the specific flawed model is debt pooling. Is that what you're saying?

Mr. Ed Portelli: And that model is the only model that is addressed in the legislation forthcoming from the ministry. It is assumed that that is the only alternative out there to credit counselling, and we are concerned that there will be a blanket statement made against any firm, entirely, that charges people a fee.

Mr. Jagmeet Singh: So, how could we protect those services which are providing a benefit to consumers while capturing those services which are providing a problem for consumers?

Mr. Ed Portelli: I think the legislation covers a lot of it as far as disclosure, as far as reasonable payment plans, as far as advising what you're going to do. It's just like any other service. You pay for the service, you pay for

your lawyer to do his best and, as long as he's doing his best and as long as he has outlined the fees that you can collect, there's nothing unfair about that.

The issue that's really outstanding is that upfront fees based on the debt settlement/debt pooling model are—

Interjections.

Mr. Ed Portelli: Sorry—on the debt pooling model are based on future attempts, future efforts, future promises that are guaranteed up front. Fees are collected up front. Once the fees are collected and all the savings are completed, then potential work begins on this supposed guaranteed settlement. That's the major problem that we found from consumers who come to us and say that that's the model that they don't want.

Mr. Jagmeet Singh: Two questions, then—I'm probably running out of time. One, can you table a list of recommendations that would protect the other models that exist? Can you give us some recommendations that would protect this, so that this law wouldn't unduly limit those services?

Mr. Ed Portelli: Yes. I can probably—today's speech was a little longer. I thought I had 15 minutes. I can forward that. But there's a lot of information in what I've handed you as far as more clearly defining what we believe are the issues, where the issues lie. If you eliminate joint bank accounts at this point, you will eliminate 90% of the issues immediately, because people's money is not held hostage first.

In our case, as an example, when you're providing services—just like your lawyer; you start to get upset with your lawyer, you start to feel like they're not doing something. You're still making payments that you could stop. You still have complaints that can be made. You're not waiting until it's all paid, until somebody decides, "Let's have a look at what we're doing here."

Mr. Jagmeet Singh: Okay.

The Chair (Mr. Garfield Dunlop): Thirty seconds for a quick question, Mr. Singh.

Mr. Jagmeet Singh: Can you provide proof or evidence that your type of model is complaint-free? That would help us in making a decision.

Mr. Ed Portelli: It's virtually complaint—we've received no complaints from the ministry in writing.

Mr. Jagmeet Singh: Can you table some evidence to that effect?

Mr. Ed Portelli: Sure.

Mr. Jagmeet Singh: Okay.

Mr. Ed Portelli: Yes. We've been licensed for 12 years and we've never had a major complaint of any sort.

Mr. Jagmeet Singh: That's good. Okay.

The Chair (Mr. Garfield Dunlop): Thank you very much. I'll now go to the government members. Mr. Balkissoon, you have three minutes.

Mr. Bas Balkissoon: Thank you, Mr. Chair. Thank you for being here. I have one question, and it's almost a follow-up to the previous questioner. If a client comes to you and pays the fee up front and they expect certain work to be done and they're unhappy, what's their recourse?

Mr. Ed Portelli: They can get a refund. Their fees are not paid up front. They're determined up front based on the situation, just as you would get an estimate from—because we include paralegal services, because we do a lot of work, we estimate the amount of work. We prorate it over the term of the contract generally and based on their budget. So we're talking monthly payments for the most part.

Mr. Bas Balkissoon: Okay. So if at any point in time they're unhappy, what do they do?

Mr. Ed Portelli: Then (a) they won't have to keep paying, and (b) we will review the situation. If we feel that we have done our best and that we have completed a lot of work, then we'll negotiate what's fair as far as a refund.

Mr. Bas Balkissoon: But suppose they're still unhappy. Where do they go?

Mr. Ed Portelli: If they file a complaint, we can respond to their complaint, if they complain to us directly. There is no governing body other than the Ministry of Consumer Services, and they are the governing body that can intervene. They don't have a whole lot of power, if that's what you're looking for, but they do lots—

Mr. Bas Balkissoon: So you're saying that their last recourse is file a complaint with the Ministry of Consumer Services against your firm?

Mr. Ed Portelli: As with any industry, yes.

Mr. Bas Balkissoon: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): Mr. Dhillon.

Mr. Vic Dhillon: You start collecting the fees. When do you actually start doing the work?

Mr. Ed Portelli: The work is started from day one. Creditors are notified immediately that they are to contact us and us only in writing. Obviously our customers are free to contact the creditors, but we advise them not to because we're looking at making a decision based on all of the creditors and having them not have to go through the stress of feeling guilty. We make it a business matter for them. We are representing them as a business to another business so we don't have to get emotional about it and they don't have to be emotional about it.

We start from day one. We put together their finances. We make a proposal, a repayment offer, and in the meantime creditors can accept or decline or change it or, in a lot of cases, they can decide to sue for it. We have paralegals on staff who have been very good at getting arrangements for these individuals that are much less than 100%, in general; 100% is not our average. Credit counselling can work for some people, but there are a lot of people who will get kicked off that program or be unhelpable because creditors have a minimum that they're willing to take to still co-operate with non-profit.

We hold a more advocacy-oriented environment where we just simply advocate, but we don't have any relationships as far as financial with creditors, but we do have courteous relationships.

Mr. Vic Dhillon: So—

The Chair (Mr. Garfield Dunlop): Okay. That concludes your time. We now go to the official opposition. You have three minutes for questions.

Mr. Jim McDonell: Do you receive any funds from the creditors at all?

Mr. Ed Portelli: Absolutely not. We'd find that to be a conflict.

Mr. Jim McDonell: Okay. You talk about your fees starting immediately. Typically, how long do you collect your fees to pay for your services?

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Mr. Ed Portelli: The average would be about eight months. We go up to 12 months. We've had some that are 18 months. We try to base it around the individual's finances and the amount of work that we feel is forthcoming, if they have assets that we need to help protect. The fee is generally a combination of a lot of different things.

Mr. Jim McDonell: Generally, what type of settlement percentage do you make—typical?

Mr. Ed Portelli: Well, a typical settlement—in our case, we are happy if the individual is protected up through the statute of limitations, if that's in their best interests. To give you a number would include a lot of zeroes. That number would be down around 15%. But I guess, the average settlement—and again, this is more of a sample guess—would be about 60%. We don't advertise that. We don't suggest that. We don't let people know that. We simply do our best, and we have a track record.

The Chair (Mr. Garfield Dunlop): Mr. Barrett.

Mr. Toby Barrett: The upfront fee, how is that calculated? Is it based on the size of the debt?

Mr. Ed Portelli: The size of the debt tends to give us an indicator of how much work is going to be involved. That does come into play, but so do their finances. These fees are not upfront, and that's what I wanted to emphasize today. They are not upfront. It is a determined amount originally based on all their information. They receive a full membership, which is lifetime. We do not disappear even if there's creditors calling them back in a couple of years. That's what I wanted to distinguish. Upfront fees, in terms that really need to be addressed, are ones where the fees are paid in full, and then attempts begin once the fee is collected in full. In the case of debt pooling, not only do you have to collect the fees in full, you also have to put the savings in full, and then work will begin. There is no contact with creditors; there's no legal defences. That's the upfront fee I think that we in this industry want dealt with. To say an upfront fee is any fee for any reason no matter how many services you provide is going to eliminate a lot of viable options for consumers.

The Chair (Mr. Garfield Dunlop): Anyone else? Mr. McDonnell, you've got about 25 seconds.

Mr. Jim McDonell: Sure. How long does your typical file last?

Mr. Ed Portelli: They're all so varied. There's a lot of people on hardship programs that are just here. They've been calling us for five, six or seven years just to get advice on day-to-day things. There is no average; there really isn't.

Mr. Jim McDonell: So your active file: How long is it active, that you're actually working on it?

Mr. Ed Portelli: Well, let's face it: After two years, there's really not much to be done. After they get past two years, the statute of limitations allows them to not be legally challenged for the debt any longer. But in a typical—most of the people, the arrangements that we make are probably in and around a three-year deal.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much, Mr. Portelli, for your submission.

Mr. Ed Portelli: Thank you.

MR. JEFF MOLE

The Chair (Mr. Garfield Dunlop): We'll now go to our next deputation, which is Jeff Mole. Mr. Mole, you have five minutes for your presentation.

Mr. Jeff Mole: Good afternoon, Mr. Chair and members. Thank you very much. My submission mostly relates to fixing up administrative stuff.

Many of you will recognize me as a champion for community enterprise in the energy sector. However, you may not realize that, prior to this, I enjoyed a lengthy career in the collection agency business. Over my 20 years in the business, I became very knowledgeable about collection agencies and credit reporting agencies, and how they work together. I no longer have a financial interest in the industry; therefore, I feel I am well positioned to represent the interests of Ontarians with proposed amendments to the bill at hand.

I am here today to request amendments to the bill that would ensure fairness and reduce the burden for consumers who want to correct their credit report. Most consumers of credit products in Ontario have an automated credit report. These reports are stored in a database which gathers and distributes information about the credit history of Ontario consumers.

Collection agencies routinely access consumer credit reports, and this is noted on the report as an inquiry. These inquiries can negatively impact the consumer's credit score. It is my submission that this access is being abused by collection agencies, and credit reporting agencies are unwilling to stop the abuse.

Credit reporting companies have policies that an inquiry made by a creditor will automatically purge three years from the date of the inquiry in the system and that the system will keep a minimum of five regardless of age. I am concerned that these policies are unregulated and unfair to consumers, since inquiries are often misleading and difficult to correct.

I am also concerned that some credit reporting agencies' standard policies are a bit heavy-handed and, one might argue, out of date. One might also argue that these policies impact some of the most disadvantaged members of our society and should be reviewed and regulated if necessary.

I submit that the bill should be amended to require that inquiries be expunged if they relate to a debt that is

barred under the Limitations Act and/or if they are made by collection agencies and others that are not, by definition, creditors.

Furthermore, I submit that the bill should be amended to require that, if a matter would be barred by the two-year limitation provided under the Limitations Act, it shall not be reported on a consumer credit report.

The Limitations Act, 2002, established a basic limitation period that, unless the act provided otherwise, a proceeding shall not be commenced in respect of a claim after the second anniversary of the day on which the claim was discovered.

It is my submission that credit reporting agencies routinely report debts that are barred by the Limitations Act. I submit the bill should include measures that align the outdated Consumer Reporting Act with the Limitations Act.

Section 9 of the Consumer Reporting Act, procedures of agencies, states—and I've outlined it here, but basically that consumer reporting agencies shall adopt procedures that are reasonable in ensuring the accuracy. It also states that a consumer credit report shall not be included if more than seven years have elapsed since the date of last payment on the debt collection. So I guess they're looking at seven years as the limitation period, when in fact the limitation period is two years.

Notwithstanding that section 9 permits the reporting of debts for up to seven years, one could argue that this is heavy-handed and that reporting companies should cease and desist reporting items that are knowingly barred by the two-year statute under the Limitations Act.

It appears that the Consumer Reporting Act was originally intended to align with the Limitations Act. However, it also appears that the act has not kept up with the modernized Limitations Act. I would argue that the industry knew or ought to have known this was the case and should have voluntarily taken steps to change the way they report older debts.

I've always felt it's better to work directly with the industry for voluntary improvement rather than going by way of regulation. Therefore, in January of this year, I raised—

The Chair (Mr. Garfield Dunlop): Thirty seconds.

Mr. Jeff Mole: Yes—this concern with the vice-president, legal counsel and chief privacy officer at one of Ontario's largest credit reporting companies. However, to date, there has been no reply to my concerns.

Accordingly, I'm seeking a regulatory change to bring provincial credit reporting policies in line with the Limitations Act. I would ask that this bill be amended as such to provide stronger protection for Ontario consumers.

Thank you very much, Mr. Chair.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Mole. That's great. We'll now go to the government members. You have three minutes. Mr. Dhillon?

Mr. Vic Dhillon: Thank you for appearing today. We have no questions.

The Chair (Mr. Garfield Dunlop): You have no questions? Now to the official opposition. Do you have any questions?

Mr. Jim McDonell: Do you have any ties to any of the credit companies or—

Mr. Jeff Mole: No. No, I'm just doing this on behalf of Ontarians. I identified that this was a known issue and I just felt I should raise it because I think it's important for the members to understand that while we have this act open for amendments, we should actually correct some of the things that are also wrong with it.

Mr. Jim McDonell: Okay. I really have no other questions. Thank you.

The Chair (Mr. Garfield Dunlop): Okay. We'll now go to the third party. Mr. Singh, do you have any questions?

Mr. Jagmeet Singh: Can we take all the other time that's left over too?

The Chair (Mr. Garfield Dunlop): No. I'm already behind today.

Mr. Jagmeet Singh: Can you describe the impact to the consumer if it's not brought in line? Right now, as it stands, the two acts are not in line. The Limitations Act provides a two-year limitation. What's the impact on the consumer?

Mr. Jeff Mole: From time to time you might get collection agencies using the fact that the credit report is going to be impacted to strong-arm consumers and, where the debt is perhaps barred, they still proceed to put it on the credit report, and that's hard to get changed for a consumer. Once the consumer wants to fix and clean up their credit history, they can't do it because it's up to the collection agencies' good heart or whatever. Trying to navigate through some of these rather large companies to get to the right person—I don't think it's in the consumers' interests to have to go through that ornery process. I think it should be corrected voluntarily. It's a known issue. They should be doing it without having to be told to do it.

Mr. Jagmeet Singh: Just to put it into a concrete example, if a consumer has a debt that's five years old and that debt is to a particular creditor, that debt would be barred by the Limitations Act because it's more than two years. They're insulated because of that, but a creditor wants to recoup losses from that, and they threaten to put that onto credit reporting.

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Mr. Jeff Mole: They're not stopping collection activities just because it's barred, and so they do inquire on credit reports. They do report outstanding items to the credit agencies. I think it's just a misalignment between the two acts, and I think there's an opportunity here to align the two acts. It's perhaps just an oversight when the modernization happened.

Mr. Jagmeet Singh: Okay. I have no further questions, unless my colleague has a question.

Ms. Cindy Forster: No.

The Chair (Mr. Garfield Dunlop): Thank you very much to the third party. Mr. Mole, thank you very much for your time today.

DIRECT SELLERS ASSOCIATION OF CANADA

The Chair (Mr. Garfield Dunlop): We'll now go to the next deputation, the Direct Sellers Association of Canada, represented by Ross Creber, the president, and Mr. Eamonn Flaherty. Please have a seat and make your presentation. You have five minutes, sir.

Mr. Ross Creber: Thank you very much, Mr. Chairman. On behalf of the Direct Sellers Association, I want to thank the committee for providing the DSA with an opportunity to comment on Bill 55 and its impact on the direct selling industry in Ontario, with particular attention to schedule 2, the cooling-off period.

Since 1954, the Direct Sellers Association of Canada has established and upheld rigorous standards, ethics and good business practices as the recognized voice of our industry. We're a family of competitors using our combined strength to ensure fairness in regulations and gain credibility and respect at all levels of government.

As an industry that connects more than 900,000 Canadians to entrepreneurial opportunity and enrichment—340,000 of whom are in the province of Ontario—we provide assurance of member company integrity and a foundation of trust and independence for the direct sellers and the consumers.

Direct selling is the marketing of consumer products and services directly to consumers, in a face-to-face manner, away from permanent retail locations, by an independent salesperson who represents a direct selling company. These sales are generally conducted in a home or workplace in the context of group presentations, known as "party plan," or on a personal consultation basis.

The DSA currently represents 45 direct-selling member companies. However, membership in our association is not automatic. All companies are required to undergo a rigorous review of their business and marketing materials by independent legal counsel to ensure compliance with all federal and provincial requirements and with the DSA's codes of ethics and business practices.

The codes are the cornerstone of our association to which all companies must adhere to prior to acceptance for membership, and it's a commitment that must be reaffirmed on an annual basis. The codes provide enhanced protection for both the consumer and the direct seller, and they exceed what is required by both federal and provincial legislation or regulations. The codes also include a complaint resolution procedure and are overseen by an independent code administrator who has no connection with a member company.

The DSA is also a member of the World Federation of Direct Selling Associations, which consists of 66 national DSAs around the world whose aggregate global retail sales in 2012 were \$154 billion US through the activities of 91.5 million independent direct sellers.

Direct selling in Canada is a \$2.2-billion industry—in Ontario, about \$720 million—that generates over \$1.36 billion of income for Canadians, injects \$4.6 billion of sales into the marketplace, contributes \$815 million in

tax revenue and, additionally, direct selling companies contribute more than \$8 million to charitable organizations across Canada.

Direct selling is a mature and trusted channel of distribution with 42% of Canadians having purchased from at least one direct selling company, with 28% of our business conducted in rural areas, 36% in both suburban and urban markets.

Direct selling in Canada is regulated at both the provincial and federal levels of government. At the provincial level, the industry is regulated by consumer protection legislation that was developed as a result of a formal agreement of the Consumer Measures Committee in 1996, which harmonized the key components of direct selling transactions across the provinces, including, but not limited to, the cooling-off period, written contracts, a written contract requirements rescission clause.

The federal Competition Act regulates the industry under the multi-level marketing and pyramid schemes selling provisions of the act with respect to inventory loading, buy-back guarantee, required purchases and unsubstantiated earnings claims.

The DSA supports the Ontario government's plan to ensure Ontario consumers are protected from the high-pressure, must-buy-now sales tactics some businesses encourage, like home improvement services and home furnace and water heater sales.

Our 45 member companies include such well-known names as Avon, Mary Kay, Amway, The Pampered Chef, Lia Sophia, Vector, USANA, Arbonne, Princess House, Partylite gifts and Creative Memories. However, the DSA does not represent companies engaged in the rental or sale of water heaters or other home improvement equipment services, which are at a much higher price point than those being offered by our member companies.

The DSA can report that over the years, we've received relatively few complaints by consumers or independent consultants that were not remedied by member companies in mutually agreeable terms. The DSA is concerned that the proposed changes could negatively impact our sector through an act of unintended consequences. The harmonized regulations that were developed by the federal-provincial task force in the 1990s have been mutually beneficial to all stakeholders, consumers, government, direct-selling companies and independent contractors.

Increasing the cooling-off period would have relatively no measurable increase in consumer protection. The problem is not the cooling-off period; it is the alleged unethical business practices engaged in by certain companies regulated within the direct-selling sector. The DSA does not support a change to the 10-day cooling-off period as it applies to direct sellers.

Thank you for the opportunity to provide our comments. We're prepared to take your questions.

The Chair (Mr. Garfield Dunlop): Thank you very much, sir. Now we'll go to the official opposition. You have three minutes for questions.

Mr. Jim McDonnell: Obviously, there have been a number of complaints, and they generally deal with the

bad players at the door. Do you have any comments on how we might fix that problem without doing some of the things in this bill?

Mr. Ross Creber: In the door-to-door?

Mr. Jim McDonnell: In the door-to-door.

Mr. Ross Creber: Specific to the real concerns that are iterated in this bill?

Mr. Jim McDonnell: Yes. The bill really was generated from the complaints the ministry has received.

Mr. Ross Creber: On water heater sales.

Mr. Jim McDonnell: Yes.

Mr. Ross Creber: Okay. Our recommendation would be, obviously, to stay with the 10-day cooling-off period, but initiate some kind of a prohibition on the installation of the equipment until the consumer has had a more reasonable time to review the contract.

Mr. Jim McDonnell: Any other recommendations you have on the bill, other than—

Mr. Ross Creber: No, sir.

The Chair (Mr. Garfield Dunlop): Any other questions?

Mr. Jim McDonnell: No.

The Chair (Mr. Garfield Dunlop): We'll now go the third party. You have three minutes, Mr. Singh.

Mr. Jagmeet Singh: Thank you. As it stands, do you have any other concerns with the bill?

Mr. Ross Creber: No, sir.

Mr. Jagmeet Singh: Would you be in a position to table an amendment that would satisfy your concern?

Mr. Ross Creber: Yes, we would.

Mr. Jagmeet Singh: Okay. Loosely, what would the amendment look like? How would it be achieved, given the bill we have right now?

Mr. Ross Creber: As I stated before, the amendment would be to stay with the 10-day cooling-off period, but find some agreeable time frame that would give the consumer an opportunity to not have the water heater installed within that time frame.

Mr. Jagmeet Singh: Not to have the water heater installed.

Mr. Ross Creber: Not to have it installed. There would be a 20-day or 30-day cooling-off period before the installation of the water heater could take place.

Mr. Jagmeet Singh: Okay. How would that benefit the consumer?

Mr. Ross Creber: I think it would definitely give the consumer more opportunity to consult with whomever they want to consult with in terms of understanding their rights in the contract that is presented to them at the door.

Mr. Jagmeet Singh: And was there anything else that you wanted to add that you weren't able to add, given the limited time that you had to present?

Mr. Ross Creber: No. Obviously, there's more information that we could provide about the direct-selling industry and the impact that it has on Canadians, and the fact that we do make a difference in people's lives in terms of providing income-earning opportunities for close to 900,000 people from coast to coast to coast. It's

a reasonable economic opportunity for people to afford to get into.

Mr. Eamonn Flaherty: I might just add to that. The 10-day cooling-off period does apply across the country in all of the provinces and territories, and it does stand. There hasn't been any shift by any province or territory to move it to a larger period, a longer period, so the 10-day cooling-off period is a harmonized agreement across the whole country. It seems to be serving consumers, certainly of direct-selling company members' services and products, very well.

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Mr. Jagmeet Singh: How would increasing that cooling-off period negatively impact your industry?

Mr. Ross Creber: Well, if it increased just in the province of Ontario, then that would basically negate the harmonized agreement that was agreed to by the Consumer Measures Committee back in the 1990s.

I was a member of that federal-provincial task force that put that arrangement together, and there was a lot of work and a lot of consultation that went into that particular agreement. For our particular industry at that particular time, member companies had to have, I think, about seven different customer sales invoices to meet the various provincial requirements across the country. That harmonized agreement brought that down to where we're working with two or, probably, usually three customer sales invoices: one English, one bilingual—

Mr. Jagmeet Singh: A last quick question—

Mr. Ross Creber: —and one specifically in French.

Mr. Jagmeet Singh: Sorry to interrupt. Last quick question: What's the number one complaint that you receive in terms of the feedback that you receive?

Mr. Ross Creber: In our association?

Mr. Jagmeet Singh: Yes, from consumers.

Mr. Ross Creber: I've had two this year.

Mr. Jagmeet Singh: But what's the main concern?

Mr. Ross Creber: Some of it is having difficulty, possibly, contacting a direct seller, which shouldn't be a problem, because if they have their customer invoice, the name and contact information of the direct seller is on the invoice.

We also get occasional complaints between an independent sales contractor, that represents a direct-selling company, and the individual. Part of it is maybe not understanding the contract that they signed.

But I can almost state categorically that the direct-selling companies will resolve those issues to the best interests of the consumer or the independent direct seller.

The Chair (Mr. Garfield Dunlop): Thank you so much, sir.

We'll now go to the government members. You have three minutes. Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much. Can you tell us what your organization's thoughts are on how consumers can be better protected in regard to, especially, door-to-door sales?

Mr. Ross Creber: I think I personally answered that question with respect to the proposed amendment, but I

think there's a lot more education that industry can partner with government on, in terms of information bulletins and messages out to the consumers from the various segments.

A number of years ago, we worked with the Ontario government and a couple of other stakeholders in producing an educational component for junior-high-school-level students, along with the Ministry of Education and the consumer ministry. It was a module on how to protect yourself in today's environment. Now, that goes back to the late 1990s, but still, that type of information is one of the ways in which we reached out to this particular community.

We make available copies of our codes of ethics and business practices to consumers or to the government agencies. We also have information on our website in terms of what to look for if you're looking to select a direct-selling company, or what you should expect to obtain from these companies.

We do have a fairly good consumer outreach, and we also have, through our Direct Selling Education Foundation, more work that we do with the academic community and with consumer groups. As a matter of fact, we worked on a fraud prevention conference two or three years ago, with a wide range of partners from the business community and the federal government. That was a huge success. I think over 300 international people attended this conference.

Those are some of the things that we do as an association to reach out to communities.

Mr. Vic Dhillon: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): No further questions?

Mr. Vic Dhillon: No.

Mr. Garfield Dunlop: Well, thank you very much, Mr. Dhillon.

Thank you very much, sir, for your presentation this afternoon.

WOMEN'S PARALEGAL ASSOCIATION OF ONTARIO

The Chair (Mr. Garfield Dunlop): We'll now go to the next presenter. I understand it's the Women's Paralegal Association of Ontario. Are you prepared to make the—

Mr. Mark Keeler: Yes. Andrea doesn't seem to have been able to make it, but I can speak on the bill.

The Chair (Mr. Garfield Dunlop): Are you prepared to do that now?

Mr. Mark Keeler: Yes.

The Chair (Mr. Garfield Dunlop): Okay, because we're running a couple of minutes ahead of time now.

Mr. Mark Keeler: That's what I thought. I was sitting here, going, "Oh, I'm going to have to do this, aren't I?"

The Chair (Mr. Garfield Dunlop): Okay. You're fine, then?

Mr. Mark Keeler: Yes.

The Chair (Mr. Garfield Dunlop): All right. Mr. Keeler, you have five minutes for the presentation, then.

Mr. Mark Keeler: Thank you.

Mr. Toby Barrett: Who's this?

The Chair (Mr. Garfield Dunlop): This is the next deputation, the Women's Paralegal Association of Ontario.

Mr. Mark Keeler: Thank you, Chair and committee. Thank you for having us today. My name is Mark Keeler. I'm a licensed paralegal. I'm also associated with the Women's Paralegal Association of Ontario.

I won't get into too much background on the association. I can save time and do what we're trying to get to, except to say that they represent women paralegals in Ontario. There are now roughly 4,500 paralegals licensed under the Law Society of Upper Canada. We operate primarily in Small Claims Court, tribunals and the lower courts.

The concern that we're bringing is, if this bill goes into effect, some of the tools that we have at our disposal, such as demand letters and the ability to make phone calls, are going to be drastically curtailed. That's one of the key tools that we need to—we make a few emails, calls, letters and so on. We are not debt settlement companies and we are not collection agencies. Very similar to the provision provided for lawyers, we require that exemption so that we can do our job as well.

As far as our own methodologies in the regulation, because we are regulated—

Interjections.

Mr. Mark Keeler: Speaking of which, take it. Go ahead.

Ms. Andrea Sesum: Thank you. Good afternoon. How are you?

Mr. Mark Keeler: I'll let up. I love that switch. Andrea can take it.

Ms. Andrea Sesum: My apologies. I thought I had five minutes. So good afternoon. How are you today?

The Chair (Mr. Garfield Dunlop): Feel free to go ahead.

Ms. Andrea Sesum: Thank you. Thank you for your time and your consideration today. I would like to begin by introducing myself as Andrea Sesum. I am the president of the Women's Paralegal Association of Ontario.

Our submissions today shall seek amendment to section 2 of the Collection Agencies Act to include paralegals under the exemptions of the act. We do have written submissions for you as well, and they will include our presentation today.

I will give you a little bit of a background. In 2006, the government of Ontario took an initiative, through the Access to Justice Act, to regulate paralegals under the Law Society of Upper Canada. As of 2012, there were an estimated 4,300 paralegals licensed in the province of Ontario. Out of those 4,300, 40 were self-employed and 43% focus on civil litigation which is before a Small Claims Court of Ontario.

As licensed and regulated providers of legal services in Ontario, paralegals are frequently the advocates of

those less advantaged and have become an indispensable pillar in providing access to justice. However, absolute and discriminatory barriers to practice in the form of restrictive or exclusionary provisions vitiate our ability to advocate for consumers. The Morris report that was done in 2012 to the Attorney General regarding the progress of paralegal regulation identified this problem and recommended a series of legislative reforms that will remove and amend discriminatory provisions.

Advocating on behalf of consumers, working with debtors to avoid litigation and providing legal services to those who often are least able to afford it are some of the critical functions that paralegals perform within their everyday mandate and before a Small Claims Court.

Despite the successful establishment of paralegal regulation, there is a collection of statutes that predate this regulatory framework and, as a result, contain provisions that make references to "barrister," "solicitor" or "member of the bar," resulting in logically inconsistent and contradictory codes that undermine not only paralegal regulation but the mere access to justice.

In the case of the Collection Agencies Act, the effect of exempting only lawyers denies the right of low- to middle-income consumers to affordable legal representation of their choice, ultimately denying access to justice, and it represents an unjust barrier for us paralegals.

Firstly, if a paralegal cannot issue a demand letter or make follow-up calls, it makes it all but impossible to engage the party to reach a settlement and possibly avoid unnecessary litigation, which increases the burden upon the courts, and it increases the cost to the consumer. A key cornerstone of the Access to Justice Act was the reduction of cost. Not amending the Collection Agencies Act would have the effect of doing just the opposite.

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Secondly, paralegals are vetted in the same manner as lawyers. We're licensed; we're sworn under oath. We're required to carry liability insurance, which is very well in excess of the required bond under the Collection Agencies Act.

We urge your honourable Chair and members of the committee to amend section 2 of the Collection Agencies Act by striking out "barrister" and "solicitor," in accordance with Dr. Morris's report and recommendation number 3, and replacing it with either "licensee" or alternatively an additional subsection. We actually drafted two options of this subsection, and it says, "(a) to a licensee under the Law Society Act in the regular practice of law or the provision of legal services or to his or her employees;" or "(a) Persons licensed under the Law Society Act to practise law in Ontario;" and "(b) Persons licensed under the Law Society Act to provide legal services in Ontario;"—

The Chair (Mr. Garfield Dunlop): You've just got a few seconds left. Sorry, go ahead.

Ms. Andrea Sesum: Thank you.

Paralegals across the province have dedicated themselves for years to protecting consumers through the courts and have been strident advocates for affordable

legal services. However, we cannot fulfill our professional responsibilities without the full arsenal of legal options at our disposal. Honourable members, this requires the elimination of the discriminatory provision, to ensure a consistent legislative framework. In my humble submissions to you today, the exclusionary language of section 2 no longer has a place in that framework.

The Chair (Mr. Garfield Dunlop): Thanks very much.

Ms. Andrea Sesum: Thank you.

The Chair (Mr. Garfield Dunlop): We'll now go to the third party. You have three minutes, Mr. Singh.

Mr. Jagmeet Singh: Sure. Thank you so much for attending today and for your deputation.

My first question is—well, I have a couple of questions. You indicated three proposed amendments. Do you favour one over the other, and is there any advantage over any particular definition of the amendments that you proposed?

Ms. Andrea Sesum: Absolutely. Thank you for that question.

These amendments were done—they were actually derived directly from the recent amendment that was done to the Commissioners for taking Affidavits Act. We just wanted to keep it consistent. That is why we proposed these options.

There's no favourite.

Mr. Jagmeet Singh: Oh, there's no favourite of the three?

Ms. Andrea Sesum: There's no favourite.

Mr. Jagmeet Singh: Okay. That's fine.

I really appreciate the fact that you've given us the actual amendment and the wording of it so that we can consider it. It's easier for us to perhaps bring forward an amendment with that.

Ms. Andrea Sesum: Thank you.

Mr. Jagmeet Singh: In terms of the access to justice piece, just to understand the demand letter, it would be my understanding that you could use it for if there was an action against one plaintiff to another—defendant, I guess—and those persons being two individuals and there's a contract disagreement. You could submit a demand letter in that circumstance?

Ms. Andrea Sesum: That's correct.

Mr. Jagmeet Singh: Also, for if you want payment from a company or a larger corporation. Would it also assist you in recovering fees if you want to be paid, I guess, as well, and sometimes in cases where someone hasn't paid you? Is that also a scenario where you would—

Ms. Andrea Sesum: Absolutely, and thank you for bringing that up.

Mr. Jagmeet Singh: Because it's something that lawyers often do, and I think that would be fair to offer that as a recourse for a paralegal as well.

Ms. Andrea Sesum: Yes.

Mr. Jagmeet Singh: Are there any other circumstances or other areas where demand letters are necessary

or can provide an assistance to either the consumer or to yourself?

Ms. Andrea Sesum: No. It would be before the Small Claims Court of Ontario, so civil litigation.

Mr. Jagmeet Singh: Okay.

Yes? You have a question?

The Chair (Mr. Garfield Dunlop): Ms. Forster? Go ahead.

Ms. Cindy Forster: Thank you. I heard that there are 4,300 paralegals and that only 40 of them are kind of an independent practice.

Ms. Andrea Sesum: Yes, as of 2012. The numbers are close to 6,000 right now, but it was 40% that were—

Ms. Cindy Forster: Forty per cent?

Ms. Andrea Sesum: Yes.

Ms. Cindy Forster: And so, if this amendment isn't passed, what impact does that actually have on that 40% who practise independently? And, I guess, with respect to collections, what percentage of the work that paralegals do is around the Consumer Protection Act?

Ms. Andrea Sesum: Yes. It's 43% of—40% of paralegals who are self-employed focus on civil litigation.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much to the third party.

We'll now go to the government members for questions. Ms. Mangat?

Mrs. Amrit Mangat: Thank you for your presentation. My question is, as a paralegal, how can you enhance consumer protection? Can you throw a light on it?

Ms. Andrea Sesum: To enhance consumer protection—it's giving them affordable access to justice. Again, we are members of the law society. We have rules of professional conduct. By allowing us to do our work properly—because 80% of litigants that appear before Small Claims Court are usually not represented, and they deserve a voice.

In most of the instances of sending out a demand letter and making a follow-up call, we would be able to assist those 80% who could now afford for a paralegal to draft a demand letter and perhaps recoup the monies, without having to go to litigation.

Mrs. Amrit Mangat: So when you are providing those services, you don't charge fees?

Ms. Andrea Sesum: We do charge fees.

Mrs. Amrit Mangat: You do charge fees.

Ms. Andrea Sesum: Yes.

Mrs. Amrit Mangat: So how do you differentiate yourself from lawyers? Lawyers also charge fees.

Ms. Andrea Sesum: Yes, they do. Paralegals are an affordable alternative to lawyers. Our fees are usually about 50% less than what a lawyer would charge.

Mrs. Amrit Mangat: What is the proof? How can we prove it?

Ms. Andrea Sesum: The law society actually sets out a schedule as to what paralegals are allowed to charge. A paralegal's hourly rate starts at \$75 an hour. I don't believe that there is a lawyer out there whose rate starts at \$75 an hour.

Mrs. Amrit Mangat: But if anybody goes through legal aid, I think the rate is pretty much the same. How do you differentiate yourself from the legal aid lawyers?

Ms. Andrea Sesum: Well, legal aid doesn't necessarily assist people for matters before Small Claims Court, so that is why we have such a high percentage of litigants that are not represented. They cannot afford a \$300-an-hour lawyer, and they do not necessarily qualify for legal aid.

Mrs. Amrit Mangat: So what you are saying is—in your statement, you said that “paralegals are frequently the advocates of those less advantaged.”

Ms. Andrea Sesum: Yes.

Mrs. Amrit Mangat: That is what the legal aid agency claims, that they also represent the less advantaged people.

Ms. Andrea Sesum: Yes, less but not least advantaged. Again, 80% of litigants cannot afford to have representation, and most of them don't qualify for legal aid.

Mrs. Amrit Mangat: Thank you. My colleague has a question.

The Chair (Mr. Garfield Dunlop): You've got about 30 seconds. Mr. Dhillon?

Mr. Vic Dhillon: What types of services do paralegals provide for debt settlement providers?

Ms. Andrea Sesum: Currently, paralegals are allowed to perform work before the Small Claims Court of Ontario. Those are debts that are up to \$25,000.

The Chair (Mr. Garfield Dunlop): Thank you very much to the government members. We'll now go to the official opposition. You've got three minutes. Mr. McDonnell.

Mr. Jim McDonnell: Thank you for coming out today. A typical file on settlement—what would a paralegal spend, time-wise?

Ms. Andrea Sesum: Is that prior to commencement of litigation, or research?

Mr. Jim McDonnell: Well, right through the whole process.

Ms. Andrea Sesum: It really depends on the complexity of a case, but from the commencement of litigation to the end of the trial, paralegal fees would be probably anywhere from \$600 to \$1,500. This includes drafting of the claim, mediation, as well as the trial.

Mr. Jim McDonnell: Are you typically only involved in the litigation part of it, or are you involved with trying a settlement before, typically?

Ms. Andrea Sesum: Yes. So it would include the work of drafting—settlement—as well as the trial. The cost could be anywhere from \$600 to \$1,500.

Mr. Jim McDonnell: Okay. Any other questions?

Mr. Toby Barrett: No.

The Chair (Mr. Garfield Dunlop): Mr. Barrett? Mr. McDonnell?

Interjection.

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The Chair (Mr. Garfield Dunlop): That concludes our time, then. I sincerely thank you very much. I apologize, Mr. Keeler, for allowing you to start there—

Ms. Andrea Sesum: He did good work, I hope.

The Chair (Mr. Garfield Dunlop): You had a good pinch-hitter there for you. My apologies; I jumped the gun with it. We're trying to stay on time here. Thank you so much for your time and trouble here today.

HOMEOWNER PROTECTION CENTRE

The Chair (Mr. Garfield Dunlop): Our next deputation is the Homeowner Protection Centre. Michael Lio is here; thank you very much, Mr. Lio. You have five minutes.

Mr. Michael Lio: Thank you, Chair, Mr. Dunlop, and members for allowing me this opportunity to make this deputation. My name is Michael Lio. I am the executive director of the Homeowner Protection Centre. The Homeowner Protection Centre is a not-for-profit that was established to advocate for homeowners and their important issues. It's a network of homeowners and product and service suppliers who are committed to improving housing and housing-related services across Canada.

Simply put, the Homeowner Protection Centre wants Bill 55 to pass so Ontario consumers will benefit by having more time to consider their purchase, so they won't be stung with high cancellation fees or double-billing ordeals and so they won't have people installing these water heaters within a few days of the homeowner contract signing, before the cooling-off period has passed.

While we support the doubling of the cooling-off period for consumers to 20 days, we also support additional consumer protection features of the bill. We support banning delivery and installation of water heaters during the 20-day cooling-off period and providing penalties when the rules aren't followed.

Mr. Chairman, the issue before you is unique to Ontario, where six out of 10 homeowners rent their water heaters. In other parts of Canada, water heater ownership is the norm. Recent polling by the Homeowner Protection Centre by Oraclepoll Research on this topic found that one in three Ontario families have had a negative experience with door-to-door water heater salespeople. So we know that the issue is real and it's before us.

The Homeowner Protection Centre contends that until Bill 55 is passed, the intensity and frequency of bad practices that victimize ever more Ontarians, including seniors, new Canadians and those on a fixed income, may continue unabated. Tactics used by some of these salespeople at the door are aggressive, manipulative and, some would say, predatory.

The Homeowner Protection Centre would like to see this bill go forward to third reading and be passed into law as soon as possible. Ontario consumers need to be properly protected from unscrupulous door-to-door salespeople.

I've got a binder here, Mr. Chairman. I understand that the Clerk is going to make its contents available to every member in electronic form. I'm going to leave this with you. It contains supporting information that we think is

important and persuasive. I'm not going to go into the contents in detail; I know that your time is valuable. But let me give you a quick overview of what's in the binder.

It contains a 2013 report by the Homeowner Protection Centre that was funded by Industry Canada. The report is called *Domestic Hot Water Tanks and Other Equipment: A Consumer Perspective*. The report contains public opinion polling as well as media clippings that detail the breadth and depth of the problem in most parts of Ontario.

Some of the more important recommendations from the report have already been dealt with in the bill. Others, we understand, may be addressed through regulation. Let me give you a few examples of how you might enhance the bill and how you might deal with some of these enhancements, perhaps through regulation.

Members, please consider regulating door-to-door sales practices for other products beyond water heaters. Please consider regulating contract disclosure by prescribing standardized plain-language cover sheets. Please consider unreasonable exit fees that often force double-billing because people can't afford those cancellation fees. Please consider regulating them or banning them outright. Mr. Chairman, I'd like your members to please consider regulating verification calls from the current supplier to the homeowner, so the homeowner understands what they're getting into.

We also recognize that we need some improvements to facilitate choice in the marketplace so that unreasonable barriers to competition are eliminated. We understand that that's beyond the scope of this particular bill.

I'd remind the committee that as of 2012, the Ministry of Consumer Services had more than 3,200 written complaints and inquiries about door-to-door salespeople, making it the second-most-frequent complaint received by the ministry. We've provided the clippings that you need to illustrate the extent of the problem that you have the power to remedy.

I have no doubt that Ontario consumers will benefit immediately and directly from your efforts to ensure the passage of this bill. Thank you.

Mr. Chairman, I'm prepared to answer any questions.

The Chair (Mr. Garfield Dunlop): Thank you so much. We'll go now to the government members. You have about three minutes. Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much. Do you feel that there are other goods and services or other industries for which the 20-day cooling-off period should be applied to?

Mr. Michael Lio: I think that any service or product that can be misrepresented at the door is liable to be dealt with in an unscrupulous fashion. I've been at this as a consumer advocate for a lot of years, and we saw how these same salespeople misrepresented energy contracts when the retail market opened up for electricity. We've seen it before. The OEB stepped in and shut it down. We've seen them migrate over to water heaters. We know that it's a problem. We know that it's out there. I don't know where they're going to go next, but I'd like

the committee to turn their mind to how some of these salespeople move from one industry to another.

For the water heater business, consumers are particularly vulnerable because they've never had to seek out information because it has always been a monopoly. It was provided by the gas companies; they didn't need information. You get somebody knocking on the door saying, "I'm from Enbridge. Your water heater is defective. I need to replace it." They don't know. They've never had to deal with information to make choices. And all of a sudden, the marketplace is opened up. We have a problem, gentlemen.

Mr. Vic Dhillon: What kind of complaints are homeowners hearing?

Mr. Michael Lio: We've gotten a raft of different complaints, from salespeople sticking their foot in the door, forcing themselves in; telling people that their equipment was unsafe, that they were from TSSA and that they needed to look at it and it needed to be replaced; that they were offering incentives on this new, efficient water heater and they had to take out the old one—all sorts of stories. You name it; it's out there.

Mr. Vic Dhillon: Thank you. Mr. Balkissoon?

The Chair (Mr. Garfield Dunlop): Do you have questions? Mr. Balkissoon?

Mr. Bas Balkissoon: I just have one. Thank you for your presentation. I would have to agree with a lot of your comments, but I find the most difficult one to deal with is my residents who get taken advantage of because they have a poor knowledge of the English language. How would you suggest that we solve that one as a government?

Mr. Michael Lio: I think that the verification call from the current supplier is really important. I think—

Mr. Bas Balkissoon: But that doesn't help if they don't speak the English language.

Mr. Michael Lio: If they don't speak the language, they should either find someone who does or perhaps the current supplier may be able to find someone who speaks the language. At the core here is that you can't have consumer choice if they don't have information that they can understand. And if they don't speak the language, it's incumbent on the industry to provide the information so that they can make the choice that's right for them.

Mr. Bas Balkissoon: Thank you.

The Chair (Mr. Garfield Dunlop): We'll now go to the official opposition: Mr. Barrett and then Ms. MacLeod; three minutes.

Mr. Toby Barrett: We're considering any amendments to the Stronger Protection for Ontario Consumers Act. In 2011, this Legislature passed the Energy Consumer Protection Act. Do you know much about that? Was there anything in the Energy Consumer Protection Act that would be useful when we're trying to deal with the door-to-door—

Mr. Michael Lio: Absolutely. I think the OEB's approach to energy retailers was largely effective. There are lessons there. I don't think you necessarily have to reinvent the wheel. I was there when the market opened

up. I was the executive director of the Consumers Council of Canada. We put out literature on our website, trying to inform consumers. The industry stepped up as well. It was done effectively. So there are certainly lessons there. I think this is an effective piece of legislation, and I urge members to push it forward.

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Mr. Toby Barrett: Do you find there's much in this that replicates what is in that energy consumer—

Mr. Michael Lio: There are certainly pieces here that are similar. Again, I think that this is a reasonable bill that should go forward.

The Chair (Mr. Garfield Dunlop): Ms. MacLeod?

Ms. Lisa MacLeod: Yes. I want to thank you for coming in, and much to my colleague Mr. Balkissoon—we tend to have people who are dealing with—we get a lot of calls on this, with some very bad actors—

Mr. Michael Lio: So do we.

Ms. Lisa MacLeod: Yes, I'm sure you do. In many cases, it is folks who are a bit more vulnerable in society. They don't question. These folks are very intimidating as well when they come to the door, and this bill really won't abolish that or end it from happening. I'm just wondering if you have any suggestions on two things: one thing we could do legislatively; secondly, how do we go above and beyond in making sure that the most vulnerable in society are assisted so that they know when to say no?

I've had just awful calls, where people have almost walked into their home. They have lied to them. They have misrepresented who they were. I really just want to be on the record here today, just to say that I deplore it and, secondly, ask you those two questions.

Mr. Michael Lio: I think complaints need to be taken seriously. So when a consumer complains and says, "I think I've been misled. This isn't the deal that I thought I was going to get. I've looked at my bill. It doesn't look anything like what I was told it was going to look like," there needs to be some strict penalties. I think that the penalties need to get the attention of the industry; otherwise, nothing's going to change.

I appreciate that the devil's in the details. We don't have the regs in front of us, so we're kind of driving blind at this point. I would hope that the regs address this front and centre.

Ms. Lisa MacLeod: As a major stakeholder, you would want to be involved in the drafting of those regulations, and consulted?

Mr. Michael Lio: Absolutely.

Ms. Lisa MacLeod: So let's send that message to the government today, that you want to be involved to help protect homeowners—

Mr. Michael Lio: Absolutely.

Ms. Lisa MacLeod: And I'm sure Mr. Balkissoon will take that back. Thank you very much.

Mr. Michael Lio: Thank you.

The Chair (Mr. Garfield Dunlop): Thank you. We'll now go to the third party. You have three minutes, Mr. Singh.

Mr. Jagmeet Singh: Thank you very much. Good afternoon, sir. Thank you for being here. With respect to water heaters, is there anything in this bill that we can do to further protect consumers beyond that there's a cooling-off period? You've talked about the idea of punishment, of having severe sanctions that would actually send a message that would have a chilling effect perhaps on improper activities. What else can we do to further protect consumers beyond what's already being proposed today?

Mr. Michael Lio: Well, I've given you some items. I think that the messaging at the door needs to be standardized. It needs to be in plain language. Listen, if you give me a contract that's two pages long and it's all mouse type and you force me to sign it at the door, that's not acceptable.

Mr. Jagmeet Singh: So they've addressed that by having a standardized script is what you're looking for—

Mr. Michael Lio: Absolutely.

Mr. Jagmeet Singh: Beyond those requirements or those recommendations, is there anything else that you can—

Mr. Michael Lio: And I think exit fees; you really need to look at these things because if someone does sign up and wants to change, I think those exit fees are an impediment to competition. I'll give you an example. In the new home market, a builder contracts with a supplier. They get—I don't know what incentives the builder gets to deal with a particular supplier. You buy a house; you get the contract. It's not until a month later that you know what you're paying in terms of rental, and by then, it's too late because if you want to get out of it, it's going to cost you big time. This isn't the way for the marketplace to work.

Mr. Jagmeet Singh: My colleague has some questions for you as well.

The Chair (Mr. Garfield Dunlop): Ms. Forster.

Ms. Cindy Forster: I know you've indicated that the kind of tightening of the OEB rules has worked, but it hasn't worked completely, because once a week I still get people in my constituency office who are in an energy contract that they shouldn't be in, and we're trying to get them out, either within that window or even outside that window, sometimes a year later; right?

Mr. Michael Lio: Right.

Ms. Cindy Forster: Do you think there's the same escape in this new legislation that's being promoted?

Mr. Michael Lio: I don't think anything is perfect. You're still going to get complaints. You're still going to get the bad apples, who still act in a way that's unconscionable.

But what has happened, I think, in the electricity and energy retailing business is that we've actually seen an order-of-magnitude decrease in the number of complaints. Certainly, they don't come across my desk. That's the same type of impact that I'd like to see in the water heater business.

Ms. Cindy Forster: I think one thing that we are finding, though, in the constituency office is that we're

able to turn them around where we couldn't in the past. Now, the energy marketers are coming forward and saying, "Okay, we'll let you out of this contract," and they're doing refunds.

Mr. Michael Lio: Yes.

The Chair (Mr. Garfield Dunlop): Thank you very much for being here today, Mr. Lio.

Mr. Michael Lio: Thank you.

VISTA CREDIT

The Chair (Mr. Garfield Dunlop): We'll now go to our next presenters: Vista Credit, Jacob Polisuk and Glen Leis. You have five minutes, gentlemen. Proceed.

Mr. Jacob Polisuk: Good afternoon, ladies and gentlemen of the standing committee. Thank you for providing us with the opportunity today. My name is Jacob Polisuk, and my colleague is Glen Leis.

Vista Credit is an independent provider of financial services to the HVAC industry in Ontario. We represent over 600 local contractors in Ontario, who all use our product to provide rental, lease and financing options to their customers.

We're here today to address proposed changes in Bill 55, specifically to section 43.1, subsections (1), (2) and (3).

We're aware of the large increase in consumer complaints in 2012 related to door-to-door rental water heaters. The question is, why? While it might appear natural to assume that the behaviour of door-to-door sales agents is strictly what led to this increase, this is in fact incorrect, in our opinion. The reality is that the increase in complaints is not necessarily a product solely of door-to-door sales, but it's also tied to the expiry of the Competition Bureau consent order. The consent order prevented Direct Energy from engaging in practices that would prevent consumers from switching water heater providers. Once the consent order was lifted, old behaviours returned, and the outcome was a spike in consumer complaints.

According to Enbridge Gas, many of the consumer complaints in 2012 related to double-billing, a practice where incumbent providers continued to bill a customer on their Enbridge Gas bill after their tank was removed and had been replaced.

Ellen Roseman addressed this in a Toronto Star article on February 1, where she wrote, "After signing contracts, consumers said ... they were often billed by both their existing provider and" the new provider.

"The two legacy suppliers are making it harder to bring back water heaters....

"Double-billing is a common issue with customers who ask me for help with water heater complaints."

The Competition Bureau also recognized that consumer complaints were largely about obstruction by the incumbent providers. In December 2012, they sought an order to prevent continued anti-competitive behaviour by Direct Energy and Reliance Home Comfort, along with a \$25-million penalty for practices they deemed anti-competitive and to the detriment of the consumer: "Each

company implemented water heater return policies and procedures aimed at preventing consumers from switching to competitors. This anti-competitive conduct affects consumers...."

At the end of the day, we maintain that consumer complaints are directly linked to the battle amongst competitors, and consumers have been caught in the crossfire. But the unspoken reality is that before competition existed in the water heater rental business, rate increases averaged more than 6% per year over a 15-year period, and shortly after competition took hold, annual rate increases declined to around 50% of that level.

How will Bill 55 affect consumers? We do not see how increasing the cooling-off period from 10 to 20 days provides any additional protection for consumers. However, we can assure you that imposing a 20-day cooling-off period will effectively end competition, because if clients have to wait 20 days to install a new water heater, most installations will get cancelled, simply for undue delay. This will serve to reinforce the monopoly position of the incumbent providers and, in our opinion, will eventually lead back to much higher annual rate increases.

While we maintain that door-to-door misrepresentation is not the prime cause of consumer complaints, overall the industry is mindful of the issue, and we are anxious to address it and to eliminate those that are responsible. To that end, in the most recent Ontario Energy Board negotiation on the Enbridge open bill agreement, which concluded in September, a combination of industry players—including parties that are here today, such as ourselves and Direct Energy—Enbridge Gas, and various consumer groups adopted strict rules and punishment aimed at weeding out rogue agents and companies.

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The new process, which will become effective January 1, requires independent verification calls that must be completed after the sale process and with specific process to assure consumers (a) who they're dealing with, (b) that they're switching providers, (c) that they understand the terms of their new contract, and (d) that they are not pressured into switching.

We contend that the adoption of these new practices, along with the existing consumer legislation, will be more than adequate to eliminate those who use misrepresentation as a sales tool.

Furthermore, it's important to note that this was a joint position that was adopted by industry, by Enbridge Gas and by consumer groups after extensive negotiation. We would urge the committee to consider adopting a similar position in the proposed legislation.

A summary of our proposed amendments is attached in your package as appendix E, and we're asking the committee to:

—delete section 43.1, subsection (1), related to the 20-day cooling-off period;

—amend subsection (2) such that if a confirmation call is successfully completed, this section would not apply to the contract;

—amend subsection (3) related to the consumer's ability to assign third party charges by allowing consumers to also appoint an authorized agent and allowing the agent to act as a consumer under the Consumer Protection Act by challenging charges that are imposed in contravention of the Consumer Protection Act by any provider;

—adopt, as an alternative to the 20-day cooling-off period, a mandatory independent verification call process to confirm all door-to-door water heater sales along the lines of the OEB settlement agreement for the Enbridge Gas open bill agreement.

Lastly, we urge the committee not to kill competition. Real competition is the consumer's greatest protection. We've witnessed this time and time again across a whole spectrum of industries. In the water heater rental industry specifically, we've observed that competition has forced monopoly providers to reduce their rate increases by more than 50%. Competition is ultimately the best remedy and in the best interest of all consumers. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much. I will now go to the official opposition. They have about three minutes for questions. Mr. McDonell.

Mr. Jim McDonell: One of the concerns we've heard in our discussion has been around the cancellation policies of either the new or the existing contracts. Any suggestions to that or what would be fair?

Mr. Jacob Polisuk: In terms of the cancellation policies for existing contracts?

Mr. Jim McDonell: Well, I mean, certainly in any new contracts or any time a new heater is placed by whoever, there have to be some rules around what the fair compensation is.

Mr. Jacob Polisuk: Yes. I think what you have to do is you have to take a look at the existing Consumer Protection Act, and you have to look at whether those contracts fall into a part IV or a part VIII category. The cancellation rights that exist are protected under the Consumer Protection Act, depending on where that contract falls.

The difficulty that occurs is that we've seen that parties who are using part IV agreements, which specify what termination charges are allowed, are then going after additional termination charges. I think the ministry has to be in a position to say to those providers, "If you're using a part IV contract, you can't impose additional termination charges."

Mr. Jim McDonell: You talked about the 20-day cooling-off period and how it would go counter to competition. Maybe elaborate on that?

Mr. Jacob Polisuk: Well, quite simply, first of all, we live in a society of instantaneous gratification, so when people make a commitment or want to go ahead with something, the next question they ask you is, "When are you going to install? When can you do it?" If you say to them, "Well, we can't do this for 20 days. We'll call you back in three weeks to schedule an install," most people are simply not going to go ahead. You've got to

remember that when they're installing a new water heater, often the person has to arrange either to take time off work, stay home, arrange for someone to be there and so on.

So we think, as we stated, the answer is to have independent verification calls. This is a process that we've followed through, even though the regulation is not there. It will be there, obviously, in the Enbridge bill part of it starting in January, which is you have to have an independent verification call that's got to be totally separate from the provider.

For example, the regulation now provides that sales agents or nobody from the new supplier can actually be in the person's residence when the verification call occurs. So it's got to be an outbound call back to them.

You have to make sure that people clearly understand what they're entering into, what they're getting out of, so that they're clear—they don't have to wait. We feel that the 10 days that currently exists is more than adequate to cover off that time frame, as long as you're providing them—I think the issue is that you've got to provide them with clear information, so that they understand what the agreements are. We would propose the adoption of verification calls, which then have to be retained on file in the event of a dispute, to make sure that they're clearly not being pressured into the sale and clearly understand the terms of the agreement they're getting into.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the third party. Mr. Singh?

Mr. Jagmeet Singh: Sure. Thank you. I'll come back to the cooling-off period and some more questions about that, but you mentioned one of the amendments; I just want some further clarity on this. To be able to act as an agent—do you mean something similar to when we have phone providers? When you're switching, for example, from Bell to Rogers, they can act as the go-between and facilitate the transfer from one service provider to another. Is that what you're looking for, or is it something different?

Mr. Jacob Polisuk: What we're really talking about is, we talked about the double-billing issue, which has been a huge issue in the last year and, we believe, has been the cause of a lot of consumer complaints. A lot of that has happened because one water heater is removed, the new provider puts it in, and then customers get calls, letters or whatever from the old provider saying, "Oh, by the way, you owe us a buyout. By the way, you owe us termination charges. You owe us \$350 because your water heater was dented or scratched when it was returned."

What we are talking about is that the bill talks about transferring termination charges to the new provider if they don't observe that cooling-off period. We're saying that it's okay to do that, but if you're going to do that, you've got to allow the new provider to act as the agent for the old provider, for the customer, and, as agent, you've got to allow them to challenge those termination charges if they are not in fact allowed under the Consumer Protection Act.

Mr. Jagmeet Singh: I see. Because, since the consumer is not responsible for it, the consumer would not be challenging.

Mr. Jacob Polisuk: You get the consumer out of the middle of what we've said is a battle between competitors, and you let the competitors battle it out with the existing rules that are in place under the Consumer Protection Act.

Mr. Jagmeet Singh: Okay. I'm left with this: I still want to hear your position on this, because, to me, extending the cooling-off period is beneficial, because sometimes 10 days isn't long enough for people to make a call to someone or figure out if they made the right decision or not, or to think it through. Expanding that period, particularly where nothing is actually put into the house, is a good, actual tangible protection for people, but your argument is that it would have a chilling effect on competition.

How can you convince me, or make your pitch? I see it as a very strong consumer protection measure. Why isn't it, and what can you come up with as an alternative?

Mr. Jacob Polisuk: Well, I think there are a couple of things. First of all, why 20 days? Why not 30? Why not a year? Why not three months? There's no end to where you can go, "Oh, give someone longer to consider what they're doing." I think what our argument is is that if you're providing adequate information, clearly and in readable English—understandable terms and conditions for what they're entering into—and considering that, as some other people spoke to earlier, universally across the country, 10 days appears to be the cooling-off period for various types of contracts, why would you suddenly amend one to 20 days? It just, in our opinion, doesn't make a lot of sense.

What you have to do is make sure that the consumer is fully aware at the beginning, when they enter into the contract, as to what the terms and conditions are, and clearly are comfortable that they're not being pressured at the door. We've heard people talk about pressure at the door. We don't think that should be the case under which they should be bound to a contract.

They should have time to consider that, but we feel that the existing time of 10 days is more than enough, as long as you combine it, certainly, with verification calls, which we were suggesting as the alternative to the 20-day cooling-off period, so that there's an independent third party who verifies it. I can tell you that we use an independent agency to do the verification calls, and we have cases where they come back and go, "This is an elderly person. We just don't think they clearly understand what they're doing." We'll simply not approve the transaction.

You have to remember that, from our point of view as a finance provider, we're in a contract for 10 years with these people. We have no interest in deceiving them on day 1. We don't make any money on day 1. We're making money by billing and collecting over 10 years.

The Chair (Mr. Garfield Dunlop): Okay. We'll go now to the government members. Mr. Balkissoon.

Mr. Bas Balkissoon: Yes, thank you. I'm reading your summary recommendations, and you're basically asking that a third party be assigned to do the verification process. Who would that third party be and how would they be paid for the work they do?

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Mr. Jacob Polisuk: We have an existing relationship. When we're saying third party, we're basically saying that it has to be an independent process from the sale. For example, one of the things that was adopted in the Enbridge rules is that the third party can't be reimbursed on commission for success of the sale. In our case, our verification provider is paid an hourly wage to perform the verification calls. They have no interest in whether that transaction goes ahead or not. There's a myriad of call centres within the province that operate. We have an existing relationship with a couple of them, but there's a myriad of them. Some companies do have their own, internal. We're saying that's acceptable, as long as they're not being compensated on a commission basis for success of calls.

I think that obtaining verification calls that are independent of the sales agent sales process is easily achievable. They're recorded calls. They're kept on record. They have to be kept for the full term of the agreement so that they're available if a consumer has any dispute later on.

Mr. Bas Balkissoon: But it would be an unregulated process.

Mr. Jacob Polisuk: It would be unregulated. In the Enbridge rules, they insist that it has to be an outbound call. For example, it can't be the sales agent at your house saying, "Here, I'm going to call the independent call centre. Answer the phone. I'm in the back." What we've heard in some of those cases is the agents in the background saying, "Just say 'yes'"—when you have a situation where someone doesn't clearly understand and there's someone talking to them in the background. That has to be taken out of the process; it is in our particular case. It's done as a call-back. When the agent leaves, they notify the call centre that they've completed a sale there. The call centre then has to make a call directly to the homeowner. It's a totally independent process from the sale.

Mr. Bas Balkissoon: And that company is compensated by the seller.

Mr. Jacob Polisuk: They're compensated either on an hourly wage or they're compensated—but they're not compensated on the success of the call.

Mr. Bas Balkissoon: But who are they compensated by?

Mr. Jacob Polisuk: In our particular case, we have the arrangement. We're not the supplier, so we have the arrangement with a call centre. We say to the companies that work as our contractors, "You've got to use these guys for a call centre." It's built into our overall pricing model. We're paying the company to conduct those because we feel it's for our own protection.

Mr. Glen Leis: I think it's also important to remember that it's a prescribed script. There are certain things

that have to be said in that call to make sure that the customer understands what they're signing up for.

The Chair (Mr. Garfield Dunlop): Thank you very much. That's the end of your deputation. We appreciate your time today, and your deputation and your submission.

DIRECT ENERGY MARKETING LTD.

The Chair (Mr. Garfield Dunlop): We'll now go to the next presenter, Direct Energy Marketing Ltd. We have Gary Newcombe, Len Diplock and Ric Forster here. You folks have five minutes for your presentation.

Mr. Gary Newcombe: Good afternoon, Mr. Chair and committee members. Thank you for inviting Direct Energy to provide comment on Bill 55 here today. I'm Gary Newcombe, vice-president, government and regulatory affairs for Canada. To my right is Ric Forster, director of government and regulatory affairs, and to his right is Len Diplock, vice-president, corporate development, and formerly general manager of our water heater portfolio.

First and foremost, Direct Energy is in favour of this bill and believes that it provides for the appropriate regulations to be made to increase consumer protection with respect to water heater sales. However, you're likely to hear many times throughout these hearings that Bill 55 goes too far and that it will limit certain businesses' ability to compete and prosper while protecting the business interests of incumbent suppliers.

We believe that you need to ask yourselves: Is having an informed consumer not a good thing? Is being truthful about the nature of your sales call not a good thing? Is allowing customers time to consider their purchase and having access to all the facts around the replacement of their water heater not a good thing? We believe that the truth about who you are and why you're at a customer's home, along with a product that an educated customer really wants, is what should be provided to a customer and that parties shouldn't be allowed to use misleading tactics or incomplete information to make a sale.

Direct Energy welcomes and supports full competition. Competition has to be fair, not based on deception or lack of full disclosure to a customer during the sales and installation process. We're here today in support of this bill, which intends to address those misleading sales practices in the water heater rental market.

You've just heard from Vista Credit that it's the incumbent's return policies that are leading to increased consumer complaints in this industry. That's simply disingenuous and ludicrous. To be fair, Direct Energy is currently defending accusations of anti-competitive behaviour before the Competition Tribunal. These allegations claim that Direct Energy has a dominant position in the water heater business in parts of Ontario and is using that position to prevent consumers from switching water heater providers and limiting competition. We deny these allegations, and we're vigorously defending them. These allegations are based on our reasonable response to the

ongoing deception of customers by door-to-door marketers.

In February 2012, in the absence of any investigative or legislative action to address the marketing practices of these suppliers, Direct Energy revised its water heater rental return policies to ensure that its customers have the opportunity to make an informed choice and to have their accounts adjusted accurately and in a timely manner. Our policies do not preclude or inhibit customers of ours from switching to other service providers.

Contrary to the position of the Competition Bureau, the water heater business in Ontario is highly competitive. Customers are frequently approached with respect to switching their water heater providers, and they regularly do so. Indeed, the nature and frequency of these solicitations are the very reason we're here today.

In addition, the reality is that the Competition Bureau has looked into this, and they believe that the gravity of deceptive marketing practices used by certain suppliers has caused them to launch an investigation into three water heater rental suppliers in Ontario. In July of this year, search warrants were issued and executed against those companies as part of the bureau's investigation into the allegations of deceptive marketing practices. The Commissioner of Competition requested such warrants on the basis that there were reasonable grounds to believe that these companies had committed a criminal offence under part 6 of the Competition Act, or had engaged in civilly reviewable conduct under part 7 of the Competition Act by engaging in misleading representation and deceptive marketing practices.

We take the view that a highly effective way to protect the consumers of Ontario and promote fair competition in the Ontario water heater market is to use the Energy Consumer Protection Act as a standard by which this bill should be measured. The Energy Consumer Protection Act, or ECPA, has had a profound effect in reducing consumer complaints with respect to energy sales in the last three years because of the measure taken within the act itself and its corresponding regulations and codes.

Direct Energy believes that measures similar to those found in the ECPA, tailored as appropriate for the differences between the energy and water heater markets, should be included in the regulations under Bill 55. These would include:

- the mandatory identification and business card presentation to consumers prior to the beginning of the sales process;

- disclosure statements which inform consumers of their rights and potential obligations and make clear the intentions and origin of the company the salesperson or installer represents;

- a mandatory scripted telephone verification process, with a minimum time period established after the sale and not in the presence of any representative of the seller;

- prohibitions on installations within the cooling-off period; and

- the creation of supplier and customer notifications to ensure that customers are aware of any financial or any other obligations under their current agreement.

Finally, given that the same type of deceptive marketing practices for door-to-door sales can occur by way of telephone solicitations, consumer protections afforded under Bill 55 should extend to remote agreements where telesales are used for the purpose of initiating contracts.

We believe that these items, based on the effective measures within the ECPA, should be taken into consideration during this committee's review of Bill 55 in order to address the marketing practices and to ensure that customers are making informed choices about their preferred suppliers.

In closing, we'd just like to thank the members of this committee for their commitment to improve issues in the water heater business, and we sincerely hope that you find some value in our comments. We're now happy to answer any questions you might have.

The Chair (Mr. Garfield Dunlop): Thank you so much. We'll now go to the third party. Mr. Singh, you have questions for three minutes.

Mr. Jagmeet Singh: Yes, thank you very much.

The major issue here is that we're looking to protect consumers and avoid some of the unscrupulous behaviour at the door. We've heard time and time again that a verification script or a verification call would prevent that. What other measures besides the ones you've indicated and besides this verification script and this verification call would allow consumers to have a more wholesome understanding of the contracts they're getting into before they get into it, would protect them so that they don't feel like they're being taken advantage of as often as they are and to protect the reputation of the industry? What else can we do beyond what is being proposed?

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Mr. Ric Forster: I think what you've already heard today are disclosure statements. I think disclosure statements are important, and those can be made available in multiple languages. The Ontario Energy Board does that, and that has worked effectively. I think that verification process is important, and must be done independently and scripted based on what would be put into the regulations.

One of the major components is ensuring that there are incumbent supplier and customer notifications with respect to any existing obligations that they may have under their current contract.

Mr. Jagmeet Singh: One of the complaints that people have raised is that perhaps this bill would stifle competition. Really, how would it, though? As it has been proposed, what would be the actual impact on competition in a meaningful way? How would it detract from it?

Mr. Ric Forster: I think that we heard from the representatives of Vista Credit earlier saying that we should battle it out, and that entails many things within the regulations in the Consumer Protection Act. But if you want to battle it out, then if you have a customer who's fully informed about any potential obligations they may have in the existing contract; knowing that they're going to another supplier, they have the opportunity to say,

"Okay. Well, they're offering me a better rate. Can you offer me a better rate?" or, "Based on what you've told me, I'm going to go back to my new supplier and I'm going to ask them for a better rate." To me, if you have a fully informed consumer, you should be able to increase competition, provided the value of the product is there for the consumer.

The Chair (Mr. Garfield Dunlop): Okay. We're pretty well out of time on that. Okay? Thank you. We'll go to the government members now. Mr. Dhillon.

Mr. Vic Dhillon: Thank you for appearing before the committee. How would you control the quality of the verification calls? What measures would be in place?

Mr. Ric Forster: I think that the first important matter is that they're scripted. If they're scripted under regulations, then you have to actually follow that script. If you don't follow that script, then it's not a verified sale.

Mr. Vic Dhillon: And they would be recorded?

Mr. Ric Forster: And they would be recorded, and they would have to be kept on file with the existing seller so that they could be referenced should the customer have any issues.

Mr. Vic Dhillon: Does your firm provide services other than the rental of—would you be in a house for reasons other than for providing water heater rental services?

Mr. Len Diplock: Direct Energy Services also services water heaters, furnaces, and we're in the plumbing services business. So we'll do other home services on other appliances within the home.

Mr. Vic Dhillon: And you guys are in favour of the 20-day cooling-off period as in the bill?

Mr. Len Diplock: We believe that giving the consumer time to consider their options is important. What is perhaps more important than the length of the cooling-off period is the prohibition of installations during that period and the opportunity for the verification call and supplier notification.

The Chair (Mr. Garfield Dunlop): Yes, go.

Mrs. Amrit Mangat: Thank you, Chair. Thank you for your presentation. The previous presenter spoke about double-billing. What do you recommend so that we can avoid that practice?

Mr. Len Diplock: The previous comments around double-billing were interesting, suggesting that they are the reason for the spike in complaints. I think that speaker got their chronology a little bit wrong. The expiry of the competition order was in 2012. The climb up the lead table of most-complained industries of water heater door-to-door sales predated that by a number of years and actually reached number 2 in 2011.

As it relates to double-billing, because Direct Energy does recognize that we had some double-billing challenges in 2012 following the change of our return policies: They were policies that we implemented to make the return of the water heater and the change to customers' accounts more orderly, so that could avoid double-billing issues. There were some hiccups along the way. We worked well in early 2012 to rectify those. It is an

exception when we see double-billing, and we will rectify those situations with customers when they arise.

Mrs. Amrit Mangat: So what other things do you suggest so that those things don't happen, other than this?

Mr. Ric Forster: I would just add that Enbridge has over 60 third party billers on their bill and we are not the only service provider that's on that bill. We are not the only ones that have water heaters.

They have a very stringent dispute process that allows for them to remove the charges for the customer, and they do that very quickly. They actually made changes to their contracting practices back in 2012 in order to be able to address that. This is being attacked, if you will, from many sides, not just from people in the industry but also from our common biller—that is, Enbridge—and they're saying that if we have a dispute, until the customer is satisfied, those disputes are coming off the bill.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the official opposition for their questions. Mr. Barrett?

Mr. Toby Barrett: Thank you, Chair. Thank you for the presentation. On page 5 you make mention that this committee should take into consideration those measures in the Energy Consumer Protection Act. Just to confirm, you've listed six major items here leading up to your conclusion. Are those six items all contained within this other legislation, the Energy Consumer Protection Act?

Mr. Ric Forster: I'm just going over it. I would say, yes. There is a mandatory identification and business card presentation that's required; disclosure statements and customer acceptance are required; a mandatory scripted verification process is required. The prohibition of installation is a different industry but the 10-day cooling-off period is respected. The creation of supplier and customer notifications are actually embedded in the rules. There is, as you can see, section 3.6 under the gas distribution access rules. There actually has to be notification to the individual who is switching suppliers to let them know if there are any obligations on their part before they switch to a new supplier.

Mr. Toby Barrett: That's under the Energy Consumer Protection Act?

Mr. Ric Forster: It's under the Energy Consumer Protection Act, which then has the regulations, and these codes from the Ontario Energy Board support regulation 389/10 of the ECPA.

Mr. Toby Barrett: And number 6, the last one? Does that relate to the—

Mr. Ric Forster: They also have various requirements for telephone sales as well. They can actually only be done on renewals at this particular point.

Mr. Toby Barrett: This committee will be considering amendments to a number of other pieces of legislation, but as far as water heater sales, I'm wondering if we're dealing with the wrong act here, if we should actually be making amendments to the Energy Consumer Protection Act to include water heater sales. It includes electricity and natural gas distribution sales. Maybe I'll

pose that to the committee. Any comment on that? I guess what we're making amendments to is the Consumer Protection Act but we seem to be ignoring the Energy Consumer Protection Act.

Mr. Gary Newcombe: If I might, Mr. Barrett, I think we're doing these amendments or proposed amendments to the right act in this process. The Energy Consumer Protection Act is very specific to energy contracts, and it's administered by the Ontario Energy Board. I think in this case, water heaters, just because they burn natural gas—I think that's just incidental.

Mr. Toby Barrett: Or electricity.

Mr. Gary Newcombe: Or use electricity, I think is only incidental. On that logic, we could suggest that maybe television sets and fireplaces be regulated under the ECPA as well, and that probably doesn't really follow.

Mr. Toby Barrett: I see.

The Chair (Mr. Garfield Dunlop): Okay. That concludes your time anyway, Mr. Barrett.

Mr. Toby Barrett: All right; thank you.

The Chair (Mr. Garfield Dunlop): And that's the end of your deputation. We appreciate it very much. Thank you so much, gentlemen.

Mr. Ric Forster: Thank you for your time.

TECHNICAL STANDARDS AND SAFETY AUTHORITY

The Chair (Mr. Garfield Dunlop): We'll now go to the next presenter, which is the Technical Standards and Safety Authority, TSSA, and the vice-president Tom Ayres is here. Thank you for being here, Mr. Ayres. You have five minutes for a presentation.

Mr. Tom Ayres: Thank you, members, for the opportunity to speak. My name is Tom Ayres. I'm vice-president and general counsel of the Technical Standards and Safety Authority, which is Ontario's public safety regulator.

Under the Technical Standards and Safety Act, TSSA is responsible for a number of sectors including fuels—and that's fuel safety. We license fuel technicians and registered energy contractors—that is, those people who come into your home and work on your fuel-burning appliances. Only a TSSA-licensed technician is permitted to work on fuel appliances and only a TSSA-licensed technician would be qualified to give opinions to a homeowner on whether or not an appliance was safe or in need of replacement.

1400

The improper installation and maintenance of heating appliances is a significant safety concern to TSSA and can in fact be a serious public safety hazard through the release of CO—carbon monoxide—in the home. Indeed, TSSA recommends that all homeowners have regular service done on their fuel-burning, natural-gas-burning appliances in order to avoid the threat of carbon monoxide.

Although Bill 55 does not have a public safety focus, it does have a significant public safety benefit, in the opinion of TSSA. Door-to-door water heater and furnace salespersons have raised a number of safety concerns with TSSA. TSSA does receive complaints regarding these individuals on a regular basis, and often these are complaints we cannot act upon, because they're more misrepresentations to the consumer rather than public safety issues, although we have in the past had circumstances where these door-to-door salespersons have misrepresented themselves as being a TSSA inspector.

TSSA inspectors do inspect the installation of hydro-carbon appliances—natural gas appliances—but they cannot go into a person's home without an invitation or a search warrant. TSSA advises homeowners to immediately report to us a door-to-door salesperson trying to represent themselves as a TSSA inspector. They do this for the purpose of getting themselves in the door so that they can have a look at the appliance and then, in turn, make a sales pitch for its replacement.

We are concerned about the quality of installations undertaken by such companies, on the basis that these companies use questionable sales tactics and are less likely to be compliant with safety regulations. It's a question about safety culture. It's a question about culture. If you're prepared to go in and misrepresent yourself to homeowners for the purpose of making a sale, it's also more likely that you're going to have an improper or illegal installation.

Such aggressive and misleading tactics undermine our efforts to the public to try and get them to have regular service done on their home heating appliances. Regular service is an important feature. If consumers are afraid to have service technicians come into their home for fear of being subjected to very aggressive tactics for the sale of appliances or for the fact that they may be ripped off, then it undermines TSSA's efforts to say, "Please, have your furnace and your home water heater inspected on a regular annual basis so as to avoid safety problems with that."

The elderly and the more vulnerable would be more likely to be reluctant to have regular service done if they're afraid that they are somehow going to be the victim of a scam. Shoddy installation risks the lives of homeowners through carbon monoxide poisoning. Fortunately, in these circumstances, no one was hurt, but the risks created by such installations are clearly and simply unacceptable to TSSA.

Those are essentially my comments, Mr. Chair.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much. You only took three minutes and 55 seconds; what's wrong with you? Thanks so much. We'll now go to the government members for any questions to the member from TSSA.

Mr. Vic Dhillon: Sure. Thank you very much for appearing before the committee today. How is your organization impacted by misrepresentation at the door?

Mr. Tom Ayres: People use TSSA's good name to get into the home. TSSA has certain legal authority that

has been granted to it by the Legislature of Ontario. We need to be able to exercise this authority in a clear manner and get the co-operation of homeowners, and also have their knowledge and understanding of what we do, so that they can ensure that they are safe and take the appropriate steps to ensure their own home safety.

If they believe that the people who come into their home for the purposes of a sale are representing TSSA, they may let them in the door when they might not otherwise. Secondly, they also misrepresent their legal authority to enter the home. We've had reports and have had circumstances where people have said, "I'm a TSSA inspector. You have to let me in," when, in fact, they're not. It undermines the good name of TSSA and undermines the efforts we make to ensure public safety.

Mr. Vic Dhillon: How do you think this bill would help the TSSA?

Mr. Tom Ayres: For one, it helps the public of Ontario as opposed to TSSA, but it helps TSSA in terms of getting its message across about regular maintenance. As I indicated, if people are reluctant to have service contractors come into their home—that is, legitimate service contractors—then they're putting themselves and their family at risk.

We encourage people to hire these people and have them come in on a regular basis. If there's an impression that these people may somehow engage in aggressive tactics to sell them appliances, or may in fact misrepresent themselves as to what they are doing—we have reports that they say, "We're doing an energy audit," or "We're doing a safety audit on your appliance"—then, in fact, it undermines our efforts to encourage people to have regular maintenance done on their home.

Also, as I indicated, if they go in and install something improperly, then it does in fact create a real serious safety hazard. Those who engage in misrepresentative practices are also more likely to do shoddy work, in our opinion.

Mr. Vic Dhillon: Any comments on the 20-day cooling-off period?

Mr. Tom Ayres: We think the extended cooling-off period is appropriate—

Mr. Vic Dhillon: Do you recommend it for other goods and services industries etc.?

Mr. Tom Ayres: We would recommend it for other heating appliances as well, for those heating appliances that are installed. This is infrastructure in your home that can be quite difficult to install; it can require extensive work done on other parts of the home. If it's installed and then has to be removed, it can create serious problems for the homeowner.

The Chair (Mr. Garfield Dunlop): That's pretty well concludes your time, Mr. Dhillon. Thank you very much.

We'll now go to the official opposition. Ms. MacLeod.

Ms. Lisa MacLeod: I'll be quick; I know my colleagues also probably want to speak.

I wanted to thank you for your presentation. It is very important for my residents in Nepean—Carleton that you talked about the importance of being approved, and that if they're not willing to be forthcoming, then it's likely

that that water heater, or whatever it is, is not being installed properly. I think that's really relevant, particularly for seniors, but also for another very important group in communities like mine, where there's fast growth in communities, and that is families with young children. So thank you very much.

Guys, do you have anything to add?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): Mr. McDonell.

Mr. Jim McDonell: I haven't seen a lot of information going to the homeowners, typically, on the regular maintenance. What do you suggest is a typical maintenance or inspection period that people with—

Mr. Tom Ayres: We recommend homeowners have their heating appliances inspected annually; that is, at the start of the heating season.

Mr. Jim McDonell: How long would you expect an installation typically to last, as far as years?

Mr. Tom Ayres: That depends on the nature of the design, the type of the installation. They generally last a significant period of time.

Mr. Jim McDonell: In your experience, is there a significant amount of alterations that have to be made when a tank is changed, or is it simply typically just—

Mr. Tom Ayres: Well, that would depend on the nature of the change. If it's going from electric to gas, for example, there are significant alterations that need to be made. It depends on the nature of the appliance that's being installed.

Mr. Jim McDonell: Typically, other than that, the plumbing would stay very similar?

Mr. Tom Ayres: The plumbing would be similar. If gas piping has to be brought in, there's also a need for clearance to combustibles for gas appliances. There's the need for combustion and ventilation air, which is to allow the flame in the water heater or the fuel-burning appliance to burn properly and avoid the creation of carbon monoxide.

Mr. Jim McDonell: Sure. Any other questions? Mr. Barrett?

The Chair (Mr. Garfield Dunlop): Mr. Barrett? No questions? Thank you very much to the opposition.

I'll go to the third party. Mr. Singh.

Mr. Jagmeet Singh: I appreciate your response to the question as to whether this would help you, as in TSSA. Your response was this would help the public of Ontario. I think that's where our concern is: How do we help the public of Ontario?

One of the issues that you brought up was that having the good name of TSSA besmirched by unscrupulous vendors or sales folks impacts your ability to provide good work. What has been your empirical evidence to suggest that there has been an impediment to the service or to the safety enforcement that your organization does?

Mr. Tom Ayres: We don't have specific empirical evidence, but what we do engage in is an extensive public education campaign. We encourage the public to be wise about the use of fuel-burning appliances.

We have had a particular circumstance where we had to revoke the registration of a contractor whose em-

ployees, whose salespersons, were going and saying they were TSSA inspectors and that they had to be let into the home. That, in itself, is a misrepresentation of their authority but also creates fear on the part of the consumer. The consumer himself or herself wants to be safe, and fear tactics such as, "You could poison your whole family. Your hot water heater has to be replaced immediately. Oh, we just happen to have a sale on hot water heaters today"—it's that sort of thing that undermines our entire efforts to educate the public on fuel safety.

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Mr. Jagmeet Singh: Do you have any sense, though, of how often or how regularly it happens that people are holding themselves out to be TSSA representatives?

Mr. Tom Ayres: We're finding it more often than we would like. It's not a widespread problem, but we want to nip it in the bud, so to speak. We want to avoid this becoming a problem. It's about prevention. That's what TSSA is about.

Mr. Jagmeet Singh: In terms of the water heater industry broadly, does TSSA have an opinion on the preferred type of water heater or the preferred delivery mechanism or any other sort of advice that you could provide?

Mr. Tom Ayres: We're not in the business of selling appliances, nor are we in the business of preferring one fuel over another. What we are in the business of is public safety, and we take whatever steps we can to advance public safety. If that means that this bill, with its consumer safety focus—that's why we support it, because it does have a public safety benefit, in our view. But we do not take a position on any of the other aspects.

Mr. Jagmeet Singh: Beyond specifically water heaters, do you have any other input related to the energy industry, or any other concerns or issues that you can bring up?

Mr. Tom Ayres: I think the bill should be monitored to see if problems continue to persist, and if they persist, consider amendments which would require that if you're not a licensed technician and you're selling a water heater, you have to disclose the fact that you're not a qualified, licensed technician. That's one amendment that we would suggest be considered.

Another amendment would be that those engaged in door-to-door heating appliance sales be in fact required to be registered with the Ministry of Consumer Services. That way, if they continue to persist in unconscionable representation and unsafe consumer tactics, the ministry could in fact revoke their registration and their right to sell such appliances door to door.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Ayres. That's your time this afternoon. We appreciate your deputation.

ONTARIO ASSOCIATION OF INSOLVENCY
AND RESTRUCTURING PROFESSIONALS

The Chair (Mr. Garfield Dunlop): We'll now go to the next deputation, which is the Ontario Association of

Insolvency and Restructuring Professionals, Daniel Weisz. Good afternoon, Mr. Weisz. You have five minutes for your presentation.

Mr. Daniel Weisz: Good afternoon. My name is Daniel Weisz and I am vice-president for the Ontario Association of Insolvency and Restructuring Professionals, also known as OAIRP. OAIRP currently has over 400 members, representing the vast majority of licensed trustees in bankruptcy practising in the province of Ontario.

You'll note that my presentation, as well as two documents that I will refer to as I speak, are being passed along.

By way of background, I have practised in the field of restructuring and insolvency for over 28 years. I am a licensed trustee in bankruptcy, and while my practice is primarily in the area of corporate restructuring and insolvency, I have also had involvement with personal insolvency files.

My trustee's licence was granted by Consumer and Corporate Affairs Canada, which at that time had the responsibility for licensing trustees in bankruptcy. Trustees in bankruptcy, including administrators of consumer proposals, are appointed and regulated by the Superintendent of Bankruptcy. The Superintendent of Bankruptcy is a federal officer.

I am pleased to be here today to talk to you about Bill 55 and in particular, the proposed amendments to the Collection Agencies Act.

To put this topic into perspective, in 2012 there were over 47,000 filings in Ontario of personal bankruptcies and consumer proposals—47,000. Clearly, there are a large number of individuals in this province who are facing significant financial hardship and who need to be protected when they seek help to resolve their financial difficulties.

Consistent with our commitment to maintain the highest professional standards amongst our members and to protect the interests of consumer debtors who find themselves in financial distress, we requested to be heard at this committee.

Debt settlement service entities are a relatively new phenomenon in Ontario. In some instances, individuals have paid upfront fees of anywhere between \$1,000 and \$5,000 to debt-settlement companies from funds that they otherwise desperately need. Unfortunately, when some of these individuals realize that their debt issues have not been resolved by the debt settlement companies, they often seek out our member trustees in bankruptcy to help them resolve their debt problems.

OAIRP supports Bill 55. We believe that individuals facing financial difficulties need to be protected from firms that require these individuals to pay their hard-earned money upfront. That being said, we believe there are certain amendments to the proposed legislation that should be considered by this committee in order to strengthen the act.

Today, we're proposing six points that we are confident will strengthen Bill 55 to better protect consumers.

These points, which are included in a background sheet that was circulated to the members of the committee, that we have prepared for your reference, include:

- the need for funds collected for payment to creditors to be deposited into a trust account specifically for that purpose;

- the ability for an individual to cancel a debt settlement agreement if the debtor does not receive the signed agreement within 30 days;

- the requirement for debt settlement service companies to be registered under the Collection Agencies Act; and

- the ability of the minister to revoke the licence of a debt settlement service company if the minister considers it appropriate to do so.

It is important to note that the points outlined on the backgrounder do not include the fees charged by entities providing debt settlement services. Jordan Rumanek, another trustee in bankruptcy, who is also a board member of OAIRP, is scheduled to speak before this committee next week, and I understand that his comments will be directed at the practices of debt settlement service entities and the fees they charge.

I welcome your questions and would be happy to provide further information about the points we have outlined on the backgrounder provided to you today. We are committed to seeing this important piece of legislation go through, and want to ensure that Ontario consumers facing financial difficulties have the necessary safeguards in place to ensure that they are protected from unfavourable industry practices.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Weisz. We'll now go to the official opposition for questions. Mr. Barrett?

Mr. Toby Barrett: Thank you, Chair. With respect to these debt settlement companies, I understand a number of them are operating in Canada or operating in Ontario but the home office may be in the United States or somewhere else. I wondered if you had any advice on what legal recourse consumers would have in trying to deal with a company that's not based in Ontario? What are some of the things that we have to consider there?

Mr. Daniel Weisz: To the ultimate extreme, in terms of litigation, any time anybody tries to challenge somebody in the United States, it's probably cost prohibitive, to say the least. Somebody experiencing financial difficulty will not have the resources to go that route. That is why we're recommending that the debt settlement companies be regulated in Ontario, regardless of where their home office is per se. That is why we're recommending that funds collected for trust accounts or for payment to creditors—the regulations of the Collection Agencies Act provide that the funds are to be in Ontario, but we just want to make it crystal clear in the legislation that it applies to funds also collected by debt settlement companies that are to be used for creditors. So, to have the funds in Ontario and have these entities regulated in Ontario, be licensed in Ontario and, therefore, if they're not doing what they're supposed to be doing or go in

contravention of the act, the minister has the ability to revoke that licence.

Mr. Toby Barrett: The members of your association, for collecting fees, have set up a trust fund in Ontario, but the debt servicing companies don't have to do that?

Mr. Daniel Weisz: For our members, we open up separate trust accounts. We have a trust account in which funds are deposited and they're withdrawn in accordance with the Bankruptcy and Insolvency Act. Debt settlement companies, if they're going to abide by the Collection Agencies Act, there's reference that trust accounts must be located in Ontario, but the legislation, in my opinion, isn't crystal clear to set out that funds that they collect for payments to creditors be deposited into a trust account that would therefore make it subject to the regulations.

Mr. Toby Barrett: And the way this new legislation is written, does it exempt your members? You're not a part of this legislation?

Mr. Daniel Weisz: We are not affected by this legislation.

Mr. Toby Barrett: Correct. I see.

Just one other thing, too, with respect to companies that maybe they lose—I'm not sure if they even have a licence from the ministry—and they set up somewhere else. As far as an enforcement, any ideas on that? Penalties—

Mr. Daniel Weisz: Sorry, can you repeat—

Mr. Toby Barrett: Well, I just get the impression that some of these, it's kind of like nailing jelly to the wall, for the government to track down some of these companies. Is there anything that you would care to advise on the enforcement side? Administrative penalties or—
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Mr. Daniel Weisz: There could be penalties imposed, but the ultimate penalty is a revocation of the licence. To the extent that they're a resident of the United States, all that information would have to be part of their application for the licence, in terms of where they're located, where their bank accounts are, to administer any work that they will be doing in Ontario.

The Chair (Mr. Garfield Dunlop): We'll now go to the third party for three minutes. Mr. Singh?

Mr. Jagmeet Singh: With respect to debt settlement services, are you of the position that there are some providers of services that actually benefit consumers and there are some bad actors? Or do you think the system is inherently flawed?

Mr. Daniel Weisz: I think the system needs to be changed to ensure—you hear anecdotal stories, so I'm not going to cast aspersions in terms of whether they're good or bad. But I think it's important, just to make sure there's a level playing field, that all of these entities are subject to the same rules and regulations, and that if somebody decides to stretch it a little, there are implications and the ability of the ministry to deal with it accordingly.

Mr. Jagmeet Singh: Are you aware of the regulations surrounding credit counselling services?

Mr. Daniel Weisz: Not in great detail, no.

Mr. Jagmeet Singh: Okay. You've proposed six amendments. Is that correct?

Mr. Daniel Weisz: Yes.

Mr. Jagmeet Singh: I just want to go through some of them with you now.

Mr. Daniel Weisz: Sure.

Mr. Jagmeet Singh: Proposal number 5: You indicate that you want to replace "other than debt settlement services" with "including debt settlement services."

Mr. Daniel Weisz: Correct.

Mr. Jagmeet Singh: What's your rationale for that distinction?

Mr. Daniel Weisz: The act currently states "other than debt settlement services," so my read of it was that debt settlement services do not have to be registered under the act, and what we're proposing is, yes, they should be.

Mr. Jagmeet Singh: The Collection Agencies Act, in my understanding, doesn't have any specific regulations or instruction around debt settlement services. It speaks to what collection agencies should do and what their roles are, but it doesn't actually go into details around debt settlement services. Do you think it would be better to have a separate act that governs debt settlement services, or do you think it can be included in the Collection Agencies Act? The reason I bring up the question is because the Collection Agencies Act goes through a number of things surrounding what collection agencies should do, but it doesn't expressly talk about debt settlement services, so to include it in that act may not be the best way to cover it. It may be better to have a separate act altogether. I just want to get your opinion on that.

Mr. Daniel Weisz: It's interesting that you ask that question because when I first started making my notes, I was trying to figure out how debt settlement services fell under this act. From what I can tell, we're trying to fit that class of companies into this act. I take your point that it may be simpler, possibly, to either clarify certain things here or have a very short act just to deal with debt settlement service companies.

Mr. Jagmeet Singh: Okay. That's why I was asking.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Singh. That's your time.

Now we'll go to the government members. Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much for your presentation. You mentioned 47,000 filings for bankruptcy. Is that for one year?

Mr. Daniel Weisz: That's right. That would be for a 12-month period.

Mr. Vic Dhillon: Okay. Can you state some of the key differences between the title that you hold and debt settlement agencies?

Mr. Daniel Weisz: Sure. Trustees in bankruptcy are licensed by the Office of the Superintendent of Bankruptcy. We go through an education process and are subject to a final written examination and, as well, appear before an oral board of examination that will then permit Industry Canada to issue our trustee in bankruptcy

licence. At the moment, we are governed by the Bankruptcy and Insolvency Act, and, as a result, debtors are protected by that legislation. So if individuals come to us to deal with their issues and they file with us, there's an automatic stay of proceedings. Creditors are immediately required to stop collection calls, stop litigation and so forth. I believe that point in and of itself distinguishes us from the other entities.

Mr. Vic Dhillon: What qualifications would debt counsellors have to meet?

Mr. Daniel Weisz: I'm not aware of what—I'm not fully aware, so I don't want to give you the wrong information, but I'm not aware of any formal education requirement.

Mr. Vic Dhillon: So there's no regulatory body or—

Mr. Daniel Weisz: As far as I'm aware, no, which is why we're making our proposal now.

Mr. Vic Dhillon: How can we strengthen consumer rights in the debt settlement industry?

Mr. Daniel Weisz: I think the strongest change that can be made is to make them be regulated and subject to ramifications if they don't—I don't want to use the term "behave," but if they don't act in accordance with the legislation.

Mr. Vic Dhillon: Okay. Do you have a question?

Interjection.

Mr. Vic Dhillon: Thank you very much.

The Chair (Mr. Garfield Dunlop): Mr. Weisz, thank you so much for your time today and for your submission as well.

CONSUMERS COUNCIL OF CANADA

The Chair (Mr. Garfield Dunlop): We'll now go to the next deputant, the Consumers Council of Canada, Ken Whitehurst, the executive director. Welcome to Queen's Park, Mr. Whitehurst. You have five minutes for your presentation.

Mr. Ken Whitehurst: I'd better read it fast. I must apologize to anyone who's heard the top of this before.

Thank you, Mr. Chairman and members of the committee. I'm pleased to be here with you this afternoon on behalf of the Consumers Council of Canada. The council is Ontario's and this country's most active volunteer-led consumer advocacy organization.

The council's mandate includes the objective to work collaboratively with consumers, business and government, seeking an efficient, equitable, effective and safe marketplace for consumers by informing and advocating concerning consumer rights and responsibilities.

The organization has an independent volunteer board of directors elected by its members. Membership is open to application from the public. The council supports itself through a mix of membership and sponsorship fees, awards, contributions and social enterprise initiatives. Since the council's inception as a non-profit corporation in 1994, it has been committed to producing evidence-based consumer research in support of its mandate and representation.

The Office of Consumer Affairs, Industry Canada, has funded the council many times after a competitive application through its contributions program for qualifying consumer groups. The council has extensive experience with processes involved in providing all levels of government with consumer impact research and analysis. Some of the ways we do that are through advisory committees and stakeholder panels; our Public Interest Network; our Young Consumers Network, ages 18 to 35; surveys of Canadians about views related to specific consumer issues; and we accept consumer complaints.

There is a whole list—I will, in the interest of time, not provide them all, but volunteers from our organization serve in consumer representative roles in many, many ways. Federally, we represent consumers before the Canadian Radio-television and Telecommunications Commission. Provincially, we represent them before the Ontario Energy Board.

We're always seeking opportunities to support research relevant to advocacy and to provide consumers and public processes with useful information. We welcome the opportunity to have your attention today to talk about Bill 55, the Stronger Protection for Ontario Consumers Act. You know the bill addresses abuses of consumers in three areas: hot water tank rentals, debt settlement and real estate.

First, to address hot water tank rentals: I would like to commend the committee's attention to research done by the Homeowner Protection Centre. Michael Lio, executive director of the centre, is also a member of the Consumers Council. You will find the centre's report, *Domestic Hot Water Tanks and Other Equipment: A Consumer Perspective*, to be informative.

The water heater marketplace is an example of what happens when exchanging a mature, regulated environment for unknown territory. When the consumer impacts of change are not thoroughly considered, there will be adverse consequences.

The legacy system of water heater rentals in Ontario had many embedded consumer protections. Change has created a sea of consumer confusion.

The costs of supervision, regulation and enforcement to government and consumers will be different from the past, but still considerable.

Our anecdotal observation is that complaints about the terms of water heater agreements emerge:

- when water heater installations are botched;
- upon transfer of title;
- upon caregivers finding an elderly person has been exploited;
- when consumers can't understand complex rental, lease and loan agreements; and
- when consumers realize they have little inexpensive recourse to resolve a dispute or seek redress.

The proposed legislation will address some of these problems in part through a cooling-off period. However, we think that in some cases consumers will not be protected in this area unless regulators work closely with criminal law enforcement.

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The same can be said about the second consumer protection issue being addressed: debt settlement services. It is already the case that many people with indebtedness problems don't understand the risks they assume when entering complex agreements. Increasingly, service agreements are being structured as leases and loans, with all the risks of the business relationship transferred to the consumer.

Consumers who don't understand complex agreements won't understand complex debt settlement service agreements either, and they will enter these agreements during moments of great personal vulnerability. People become vulnerable to usurious schemes to help them with their debts as a result of facing serious personal and economic challenges of many kinds. People of any income level can be affected.

Stress is a source of bad decision-making. This applies to wealthy or poor alike, although, by definition, once one needs help with debt, notwithstanding one's personal social self-identification, they are both poor and potentially vulnerable. The need for debt settlement can be a symptom of larger, more serious problems. Under no circumstances should economics or law allow people in need of debt settlement into anything but trustworthy relationships.

Even large corporations have trouble protecting themselves from economic scavengers when they are in financial trouble, whether they enter bankruptcy or not.

The council is pleased to see this committee consider assertive measures to protect consumers. Many sales practices can be antithetical to basic consumer rights, which are intended to support rational consumerism.

The purchase of a home is one of the most important purchases a consumer can make. It starts a lifetime of costs and obligations. A home represents both shelter and primary investment for most Ontario residents who buy one.

Real estate sales transactions that encourage emotional decision-making are flatly wrong. Real estate transactions must be subject to review so auction sales cannot be rigged. Consumers and honest real estate brokers have an equal stake in this.

Market transparency and control of product information, including price information, is shaping up to be one of the major issues of our time. Hidden risks and careless, misinformed and irrational purchasing and financing schemes in real estate and other sectors harm consumers.

Thank you for this opportunity to speak to the committee today.

The Chair (Mr. Garfield Dunlop): And thank you very much for your presentation. I will now go to the third party. Mr. Singh, you have comments for three minutes.

Mr. Jagmeet Singh: Yes. Thank you very much for your presentation. It's a pleasure to see you again. I've had the pleasure of meeting you once before now.

With respect to—let's just go through each topic briefly—debt settlement services, there has been a distinction made between various steps of—

Mr. Ken Whitehurst: Debt counselling and debt settlement services.

Mr. Jagmeet Singh: Right, but also in debt settlement services, there are a number of different models that are proposed. There are some which require debt pooling, which is placing money into an account, with the purpose of (1) paying the debt settlement service, and (2) paying off the debt. And there are other models which involve negotiating a settlement up front and then being paid to do that settlement. Of the two models, there seems to be more complaints associated with the former, not the latter, meaning there are more complaints with the idea of pooling the debt payments. That's where the source of the complaints is as opposed to someone just providing the settlement services.

Have you noticed that distinction in your work as an advocate for consumers?

Mr. Ken Whitehurst: I think what we're concerned about is that there's an unregulated category emerging. We haven't been able to discern all the fine points of the distinctions. Our organization just flatly hasn't had the resources to do that.

What we've noticed, however, is that, one by one, states in the United States just out and out are banning debt settlement services. There have been really some serious problems, and some of the problems, especially where people have made commitments to settle debts and then actually get people into more difficult debt situations, are—well, they border on something that there are other laws to handle.

The whole area of debt settlement has gotten to be really complicated because it used to be—

Mr. Jagmeet Singh: But just so I understand, you're not familiar with the two different models?

Mr. Ken Whitehurst: No, I couldn't comment on the details.

Mr. Jagmeet Singh: That's fine. Are you aware that credit counselling, which is another form of counselling or service around paying back your debts—that they're almost 50%, if not higher, half-funded by creditors themselves? Is that something that you've looked at at all, and would that, in your mind, as a consumer advocate, impact their ability to provide unbiased protection to consumers?

Mr. Ken Whitehurst: We always believed that redress solutions should be independent, but how you achieve that independence is the key. It's a good thing if responsible lenders will pay part of the cost of the redress system. The question is looking in detail at how that independence is maintained. In the banking sector, we have this very debate going on over redress mechanisms, for instance—

The Chair (Mr. Garfield Dunlop): Okay, thank you. That concludes your time for the third party.

We'll go to the government members now. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much. I just have one question, really. With respect to door-to-door sales, do you feel the 20-day cooling-off period should be applied to other goods, services, industries etc.?

Mr. Ken Whitehurst: Should it be applied in other instances?

Mr. Vic Dhillon: Yes.

Mr. Ken Whitehurst: Well, the cooling—

Mr. Vic Dhillon: For more involved purchases.

Mr. Ken Whitehurst: Certainly, people are having trouble with the cooling-off period and its length. If it involves, say, seniors who need the assistance of caregivers, for instance, you've got an automatic problem, a delay problem. It's hard to know even if 20 days gives a big-enough window.

If someone's in a pressured sales environment, I would say even the extension of what we're doing now is really—people discover the agreements when actions result. Somebody shows up at a door with equipment or whatever, and it's not known about and what have you, so you get those kinds of situations.

Also, realistically, consumers are really time-pressed today. I mean, they've lost all their time on the highways, for instance, in southern Ontario. So they're actually having a hard time, I think, reacting inside of what were once reasonable time frames. So, yes, you could be looking at giving people more contract recourse, I think.

Mr. Vic Dhillon: With respect to debt settlement agencies and the bad players in that industry, what type of solutions do you propose to sort of—

Mr. Ken Whitehurst: Our sense is that at the front end, the ministry has brought forward proposals that are reasonable steps. You have to take action somehow, and you have to look at what your authority is and what you're going to reasonably be able to do. It's good to take those first steps.

I think what we wonder about a little bit sometimes is something I alluded to earlier. In the most egregious cases, where is the place for criminal law enforcement, and why is it that criminal law enforcement seems to be so weak when we get into commercial-sector-type behaviour and fraud?

There certainly are some good initiatives we're supporting, like the anti-fraud centre and what have you. More people ought to know, when they think they're in that position, and take some of these issues up directly with authorities.

But on the other side of it, we don't see what you might describe as systemic fraud being taken up with gusto by policing authorities, and maybe it's just that they're not equipped for it.

The Chair (Mr. Garfield Dunlop): That concludes your time for the government members.

We'll now go to the official opposition. Mr. McDonell.

Mr. Jim McDonell: Thank you for coming out today, and I realize that you're that independent voice sometimes we have to hear.

There's some discussion around the 20-day cooling-off period being too much if you're looking at trying to encourage competition, and not being enough if you're trying to give the chance for consumers to have second

thoughts. It seems to be an excessive time period, compared to—or singling out one industry.

Do you see the verification call—what's your opinion of that? Does it need to be independent?

Mr. Ken Whitehurst: The verification for?

Mr. Jim McDonell: Follow-up on the hot water sales to review the contract and what their rights are, letting them know that they are indeed possibly changing companies. Does it need to be independent or can it be, as we talked about before, the same company calling back—

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Mr. Ken Whitehurst: Yes. Here's the tough thing, and I think here we're mostly talking about the water heater rental context. Part of the reason you actually do need the delay and a set time for stuff showing up is just because there are so many cases where someone who should be party to a decision just isn't, and it's not until there's some action that happens that you know that a contract has been entered into. For the most vulnerable people, that's often part of the problem.

I don't think that should be looked at through the lens of competition. It's actually kind of hard to know, with a lot of these agreements, whether the consumer is ever being offered an actual competitive advantage, and when they think they are, they can be frequently mistaken. Part of what this is dealing with is actually trying to surface the information so that people understand the transaction they're in.

The other problem that I think we're having around these timelines is just that there has been a culture in Ontario of getting your water heater service a particular way. It was pretty simple: You got your water heater. You had it. If you sold your home, the obligation just transferred to the next person. It was always reasonably priced. If you had trouble with your water heater, someone came in and fixed it. It was all simple.

These agreements are not making it simpler for consumers in any way. It's kicking up all kinds of noise. It's creating problems for people closing house sales and all kinds of things.

We have a general problem, and there are other issues that have been before the Ontario Legislature recently where what ought to be simple competitive commercial transactions are being turned into these incredibly complex agreements. Everything is becoming a complex contract. They're getting longer and longer. That's before we even get the software.

The Chair (Mr. Garfield Dunlop): That concludes our time, Mr. Whitehurst. Thank you so much for your presentation today.

ENBRIDGE GAS DISTRIBUTION INC.

The Chair (Mr. Garfield Dunlop): We'll now go to the final deputation today: Enbridge Gas Distribution. Welcome to Queen's Park. We look forward to your presentation. You have a five-minute presentation.

Ms. Kerry Lakatos-Hayward: Okay. Good afternoon, committee. My name is Kerry Lakatos-Hayward;

I'm director of customer care at Enbridge Gas Distribution. To my left is Steve McGill, senior manager of contracts and finance at Enbridge.

Enbridge Gas Distribution is Canada's largest natural gas utility; we have more than two million customers in Ontario. We serve more than 100 communities in the GTA, Niagara, Barrie and Ottawa regions.

On behalf of Enbridge, I would like to acknowledge the work of the Ministry of Consumer Services on Bill 55, important legislation aimed at protecting the rights of Ontario customers in regard to door-to-door sales. We believe this is a consultative and balanced approach, and we continue to work with the ministry on this bill as well as other legislation, including Bill 8, the underground systems notification act.

Some of you are probably wondering why Enbridge Gas Distribution, a regulated natural gas utility, is here today, since in 2000 we sold off all of our unregulated businesses, including those related to energy services and water heaters. In addition to distributing natural gas reliably and safely, we also provide third party billing services to unrelated energy service providers through which the third party bills customers for their energy-related products and services.

Just to give you a little bit of stats here, almost 1.5 million Enbridge customers see third party charges on their monthly bills from us. We provide a billing service to 59 third party billing clients. As well, in a typical month, we handle about 2,200 customer disputes in respect to these third party charges.

Since Enbridge provides this billing service to our customers on behalf of these third parties, we're often in a unique position in that customers call us first when they do have a dispute or concern about what is on their bill. Enbridge has received complaints of aggressive tactics utilized by door-to-door sales, including misleading information, high pressure and intimidating tactics, and conduct that could be considered fraudulent. In the submission that we've provided, we have included a bit more of a detailed description of some of these practices that we have observed. We do believe that Bill 55 and its subsequent regulations will be very important to curb some of these troublesome practices, although we recognize and acknowledge that development of subsequent regulations will be important as we move forward.

During our initial consultations with the Ministry of Consumer Services, we did recommend the following potential solutions, and some of them have been included into the legislation. We do believe that they're important to mitigate the impacts of aggressive door-to-door sales, and I want to highlight a couple of them that we do believe are important.

The first is prohibition of installation of water heaters during cooling-off periods. The prohibition of the installation of water heaters during the cooling-off period will allow customers sufficient time to identify, contemplate and understand the implications of entering into the agreement.

Now, of course, in any subsequent regulations, there will have to be consideration to certain carve-outs: customers who are installing water heaters in emergency situations, or where the sale has been initiated by the customer.

The second point is contract verification. Enbridge Gas Distribution concluded, in a settlement with the Ontario Energy Board, the form of its open-bill service. Effective January 2014, we will be introducing a contract verification call requirement for all direct-contract sales transactions. The nature of these calls will be recorded, conducted after the customer has finished the transaction with the salesperson and there is a firm agreement for the good/service, and the call is not done while any representative of the seller is at the customer's premises. We do believe that's an important point. Additionally, the customer must be advised of their right to the cooling-off period and positively elect to have any equipment contracted installed before the expiry of this cooling-off period. We have included in the appendix a bit more of a detailed description of our requirements for the verification call.

Because this contract verification only relates to the third parties who are entering into the services with Enbridge, the ministry may wish to consider including a contract verification requirement in the contemplated amendment to the Consumer Protection Act.

One of the other recommendations that we believe may be considered is implementation of licensing and a code of ethics. The licensing of sales reps could be combined with a code of ethics. To be effective, the code of ethics would have to be enforceable, such that there are ramifications if the code of ethics is breached, up to and including restrictions on both the sales rep and their employee, including the loss of the licence altogether.

Lastly, we do believe it's important, with respect to water heaters—the establishment of a protocol concerning rental water heater replacements, setting out such things as the removal and return of rental equipment, such that the rules would be followed by all rental water heater service providers; and recognizing the impracticality of reversing a water heater installation, from a customer perspective; and recognizing the need for a balanced approach that respects the rights and interests of the customer but also the prior and new service provider.

In conclusion, I would like to thank the committee for its time this afternoon and for hearing our remarks today.

The Chair (Mr. Garfield Dunlop): Thank you so much. We'll now go to the government members for three minutes of questions. Mr. Dhillon?

Mr. Vic Dhillon: Thank you, Chair. How do you think protection for consumers can be strengthened for door-to-door sales?

1450

Mr. Steve McGill: We believe that the key thing is a prohibition on the installation of the hot water heater during the cooling-off period. I think it was the fellow from the TSSA who pointed out that when you're installing a new hot water heater in someone's home,

there are a lot of alterations that need to be done. Then if the customer or the consumer were to change their mind about the purchase within a cooling-off period, there would still be significant cost involved in reversing that decision and taking out the new hot water heater. As far as we're concerned, that's the key thing that needs to be addressed here.

The second thing would be some form of contract verification that is transparent and gives a reasonable level of comfort that the customer or the consumer actually understands the nature of the contract that they are about to enter into. They should be made aware that they may have obligations to the incumbent service provider and that to be fully informed, they may need to contact that party to find out what those obligations may be.

Mr. Vic Dhillon: Has Enbridge been a victim of any misrepresentation at the door?

Ms. Kerry Lakatos-Hayward: Yes. We have received complaints of that nature, where the customers have indicated that the sales representative has indicated that they are representing Enbridge Gas Distribution, but also, as the member from TSSA indicated, from TSSA as well. We do hear that, yes.

Mr. Vic Dhillon: Thank you very much.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Dhillon. Any other questions? We'll now go to the official opposition, Mr. Barrett.

Mr. Toby Barrett: Thank you to Enbridge. A couple of your recommendations—the cooling-off periods and contract verification—were also presented to us by Direct Energy. Direct Energy owns Enbridge; is that right?

Ms. Kerry Lakatos-Hayward: No, that's not correct. They're independent companies.

Mr. Toby Barrett: Okay. Direct Energy—

Ms. Kerry Lakatos-Hayward: There's no relationship between Direct Energy and Enbridge Gas Distribution.

Mr. Toby Barrett: Oh, okay. What about in water heaters? There's no—

Ms. Kerry Lakatos-Hayward: Absolutely—

Mr. Toby Barrett: Okay, fine.

Ms. Kerry Lakatos-Hayward: Yes, we provide a third party billing service to Direct Energy but also to 58 other independent companies.

The Chair (Mr. Garfield Dunlop): They all have nice trucks.

Mr. Toby Barrett: Yes, but different colours. Anyway, Direct Energy made recommendations and made mention of the 2011 Energy Consumer Protection Act and indicated that there were measures in that legislation that this committee would do well to take a look at as far as considering here. I just noticed during your presentation that two of them, I think, would be—you mentioned cooling-off periods. As I understand, that's in the Energy Consumer Protection Act, something like that, and also the contract verification business. Do you have any comments on that? Would that help this committee, to take a look at that previous legislation, the Energy Consumer Protection Act? It's already law. Not that I'm

maybe not that averse to reinventing the wheel here, but I'm just wondering to what extent can some of the stuff be replicated here.

Ms. Kerry Lakatos-Hayward: Yes. I believe that the independent contract verification, as well as the cooling-off period and the prohibition of installation of equipment during that period, would be very important measures to contemplate here.

One of the other things that I did mention close to the end was the licensing of sales representatives and a code of conduct. Again, from our experience we find that maybe not all but many of these companies employ independent sales representatives who are compensated on a commission basis. They're a fairly transitory—let's call it—sales force, and they often go from company to company, so there's really not a lot of, let's say, control over these sales agents. So we believe some form of licensing and/or a code of conduct would be very helpful to help in that regard.

The Chair (Mr. Garfield Dunlop): That concludes your time, Toby. Sorry.

Mr. Toby Barrett: Just a quick one: Is that one also in the previous energy—

Interjections.

Mr. Steve McGill: I think, in conjunction with the Energy Consumer Protection Act, you should probably look at the gas distribution access rule as well, because that contains rules and standards with respect to the switching of gas commodity marketers. There's a process there. If a new provider is going to bump an incumbent, there's a noticing process and a review and confirmation process associated. That would be good to look at.

The Chair (Mr. Garfield Dunlop): Thank you. We'll now go to the third party. Ms. Forster.

Ms. Cindy Forster: Thanks for being here. I actually just want to take this back to something a little more simplistic. I understand that you used to be in the business of water heater rentals, so why is it that so many people in this province are actually using this system of a monthly rental as opposed to buying? I realize that there are some advantages, but are we communicating the actual cost differences to consumers with respect to renting as opposed to purchasing? In my experience, I've changed one hot water heater in 40 years and have lived in three different homes. They tend to last a fair bit of time. Can you comment on that?

Ms. Kerry Lakatos-Hayward: Certainly. The former Consumers Gas Company has had water heaters back to the day, and so it was really an effective tool for Enbridge Gas Distribution to encourage customers to use natural gas. When you look at the competitive advantage of natural gas versus other forms of energy, it is very cost-effective in that regard.

I believe what's important is transparency to customers of rental versus leasing versus ownership. Absolutely, that should be included in any kind of contracting arrangement with customers so that they can make informed decisions with respect to which way they want to go. Our research has shown that customers really

like the rental option, certainly with respect to the service we provide of including it on our bill. They appreciate the convenience of that.

Ms. Cindy Forster: Thank you.

Mr. Jagmeet Singh: Just very quickly, the cooling-off period exists, but you're specifically asking for that prohibition on insulation. That's the unique thing that you're asking for.

Mr. Steve McGill: Yes. That would be what we believe to be one of the key components of the revised act.

Mr. Jagmeet Singh: Okay.

Interjection.

Mr. Steve McGill: Yes. Again, we've also made note of the carve-out there with respect to customer-initiated transaction, which sort of distinguishes—

Mr. Jagmeet Singh: It's a customer's choice.

Mr. Steve McGill: Right.

Mr. Jagmeet Singh: Then with the contact verification, in appendix B when you kind of qualify what you mean by independent verification, you describe it as made by a qualified party—and I appreciate the component that the representative is not going to get remunerated based on how many contracts get approved or new contracts get signed. It doesn't necessarily mean

that they have to be an independent company, though. They could be by the same company, but just not be compensated for each renewal. Am I understanding that correctly?

Mr. Steve McGill: That's correct. When we negotiated the requirements of the verification call with the other industry participants and, actually, VECC, which is a consumer advocate group, we were consistent with the requirements of the Energy Consumer Protection Act. We probably don't match them word for word, but it's consistent with that in that the qualified party, as we define them, doesn't necessarily need to be a third party, as long as they're not being directly compensated.

Mr. Jagmeet Singh: Just one last question—

The Chair (Mr. Garfield Dunlop): That concludes your time. We're over. The meeting is adjourned. Ladies and gentlemen, we have to adjourn now because the House is starting up.

Next week we'll meet again from 1 p.m. to 3 p.m. on the 30th. We have a full deputation at this point and more might come forward. We might be starting again at noon, so we'll keep a close eye on that. To everyone here today, thank you very much for your time.

With that, the meeting is adjourned until next week.

The committee adjourned at 1500.

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Mercredi 30 octobre 2013

Standing Committee on the Legislative Assembly

Stronger Protection
for Ontario Consumers Act, 2013

Comité permanent de l'Assemblée législative

Loi de 2013 renforçant
la protection
du consommateur ontarien



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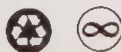
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 30 October 2013

Mercredi 30 octobre 2013

*The committee met at 1301 in committee room 2.*STRONGER PROTECTION
FOR ONTARIO CONSUMERS ACT, 2013
LOI DE 2013 RENFORÇANT
LA PROTECTION
DU CONSOMMATEUR ONTARIEN

Consideration of the following bill:

Bill 55, An Act to amend the Collection Agencies Act, the Consumer Protection Act, 2002 and the Real Estate and Business Brokers Act, 2002 and to make consequential amendments to other Acts / Projet de loi 55, Loi modifiant la Loi sur les agences de recouvrement, la Loi de 2002 sur la protection du consommateur et la Loi de 2002 sur le courtage commercial et immobilier et apportant des modifications corrélatives à d'autres lois.

The Chair (Mr. Garfield Dunlop): Good afternoon, everyone. I'd like to call the meeting to order. We're here at the Standing Committee on the Legislative Assembly to continue deputations on Bill 55, An Act to amend the Collection Agencies Act, the Consumer Protection Act, 2002 and the Real Estate and Business Brokers Act, 2002 and to make consequential amendments to other Acts.

RELiance COMFORT LIMITED
PARTNERSHIP

The Chair (Mr. Garfield Dunlop): Our first deputation is Reliance Comfort Limited Partnership. Sean O'Brien, Jack Cook and Rob Jutras are here. Gentlemen, you have five minutes for a presentation, and each caucus has three minutes to respond and ask you questions after. I'll try to warn you when you get up to five minutes, because that goes pretty quick here. As you start to speak, could you just mention who you are into the mike so that Hansard can pick it up?

Mr. Sean O'Brien: Good afternoon and thank you very much for this opportunity to share our views on Bill 55. My name is Sean O'Brien. I'm the president and CEO of Reliance Comfort Limited Partnership. With me, I have Rob Jutras, our vice-president of sales and marketing, and Jack Cook, who is our general counsel.

Reliance is Canada's largest water heater rental company, with 1.2 million residential and commercial water heater customers in four provinces, including Ontario. Because we have the largest established rental

base and we also pursue door-to-door sales, we provide a unique perspective on the current regulatory landscape and the urgent need for reform.

As you know, complaints about water heater rentals are among the most common received by the Ministry of Consumer Services. Reliance believes that Bill 55 will better address the increasing number of misleading door-to-door sales practices that have become a significant problem for Ontario consumers.

We congratulate the ministry for moving forward in a timely manner on this very important bill. Reliance is especially supportive of the prohibition regarding the installation of new rental water heaters during the new 20-day cooling-off period. This will help us ensure that consumers get a meaningful cooling-off right, given the unique nature of the door-to-door water heater rental process, and time for them and more information to make better decisions.

However, we are suggesting two key amendments that will, in our view, improve the bill and increase consumer protection. We are suggesting some additional consumer protections that can be developed in the regulations under Bill 55.

First, we think that the scope proposed in the amendment in section 43 of the bill should be narrowed. As it's currently drafted, the proposed 20-day cancellation right is intended to apply to any direct agreement for a water heater. Reliance is concerned that this will impact many legitimate deals, such as urgent replacements when existing equipment is no longer functioning or transactions where the customer has actually requested the appointment.

Because of this, Reliance recommends that the new 20-day cooling off period be narrowed to include only transactions resulting from unsolicited door-to-door sales or rental water heater activities.

In addition, Bill 55 provides that consumers will have the right to recover third party charges that are related to a new supplier's installation of water heaters during the 20-day cooling off period. However, we believe that the language in subsection 43.1(3) may be interpreted too narrowly and consumers may not be able to fully recover the related third party expenses.

For example, a consumer could face charges related to previous rental equipment, such as return charges, account closure fees or charges for damages to the hot water equipment that is returned by the new supplier. These sorts of charges may be seen as amounts that

would have been incurred for the customer, regardless of the breach of the act, and not recoverable.

In order to ensure that the consumer has meaningful remedies and that there are no hidden costs to exercising the cooling-off right, the language in this section should be clarified to ensure that consumers are entitled to recover all charges related to removal and return of goods replaced by the new supplier.

Reliance also has some suggestions with respect to regulation, both current and proposed. Our written submission has been provided to the Clerk earlier, and provides greater detail and language around these recommendations. However, for instance, there's a possible loophole in section 12 of the current regulation that should be closed so that suppliers cannot avoid protections under Bill 55 by structuring their rental contracts as leases governed by part VIII of the act.

Also, the new regulations should include provisions that an independent third party conduct recorded verification calls for each door-to-door rental of a water heater.

Equally important is that the new regulations include requirements for new water heater rental suppliers to notify the old supplier of the consumer's decision to terminate his or her rental contract. Timely notification to the existing supplier is a reasonable safeguard that exists in other regimes, such as the retail sale of energy, and would help reduce problems regarding customers being double-billed.

Reliance is committed to working with this committee and the government to ensure that the terrible abuses of consumers that have occurred over recent years are effectively ended. We would ask the committee to endorse the changes that Reliance has proposed, including them in the report to the Legislature.

We would be happy to take any questions from the committee at this time.

The Chair (Mr. Garfield Dunlop): Thank you very much. Boy, your timing is dead right on. I'm kind of like an NHL referee here; I just have to keep an eye on the penalties—

Mr. Sean O'Brien: That's good. It was good. I saw you looking at that clock.

The Chair (Mr. Garfield Dunlop): I'd now like to ask the official opposition if they have any questions—three minutes.

Mr. Jim McDonnell: I know that you talked about restricting it to just direct door-to-door sales. Would you see that—as you tackle one issue, sometimes it moves along—other types of sales would also be included, like direct mail or calling? Sometimes, if you can't go door to door, you move on to the next step, which is a direct call to the customer. We already see a lot of people getting calls on various items.

Mr. Sean O'Brien: That's a very good question, and I think there are two things that are going to address other avenues. For example, on calls, there's the do-not-call list program that we all have to respect, and our process respects that from a code-of-conduct standpoint.

The other—direct mailing or other initiatives—is all driven through economics, in terms that it's a very costly

avenue to try to generate sales activity. I think that just by the nature of the economics, that is an avenue that I don't think needs to be regulated at this time, because there's already some process in place: the do-not-call, for example, and then, for direct marketing and other marketing initiatives, pure economics are going to drive that.

Mr. Jim McDonnell: I guess we're looking at something—a format here—that, once it gets initiated, you want to put some rules around it. You may want to open that up and look at a number of different avenues that customers may be contacted or—

Mr. Sean O'Brien: Right. Jack, is there anything, in terms of the detail we provided in our written submission, that would address what Mr. McDonnell is talking about?

Mr. Jack Cook: I'm Jack Cook, general counsel for Reliance. No, our written submissions don't really touch on any other transactions—remote agreements or telephone enrolment. In our experience, the problems mainly faced by consumers right now are misleading door-to-door tactics, and we think that's what Bill 55 ought to focus on and address.

Mr. Jim McDonnell: One of the other issues we seem to have with some door-to-door sales—putting in new contracts, even if they are taken—is putting in a fair end-of-contract condition, so that the consumer knows just how long the contract is and what the penalties are for getting out early, and being fair to the supplier as well, having some type of depreciation allowance so they can get their investment back, like yourselves, if somebody comes along and sells something. You don't want to be left on the hook with something that you haven't received fair compensation for yet. There's the tightening up the rules and what the return policies would be. Any comments on that?

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Mr. Sean O'Brien: Rob, would you like to—

Mr. Rob Jutras: Sure. We think that competition is great and that Bill 55 is really about managing the information. You talked a lot just now about giving the information up front. I think that's really, really important, and that's what we think Bill 55 can help do: get full disclosure on what the contracts are.

I don't think it's really about limiting competition in terms of regulating what the contracts look like. That's what people want to compete on, and I think that gives consumers a lot of choice. So I don't think Bill 55 should be about limiting the terms and conditions of the contract; I think it's more about making sure consumers understand those terms and conditions they're about to enter into.

The Chair (Mr. Garfield Dunlop): Okay. That concludes the time for the official opposition.

We'll now go to the third party. Mr. Singh?

Mr. Jagmeet Singh: Thank you very much for attending today; I appreciate your presentation.

I just want to clarify a couple of points. One is when you talk about your proposed amendments for 43(1)(a)

and 43.1(1). You're talking about how your issue is that it's too narrow in terms of its application. Does that mean that you're saying, or you would support an amendment, that would make this apply to any agreement as opposed to only direct agreements? So telephone agreements, any other form of Internet agreements—if there is such a thing—but other forms of agreements beyond just direct agreements; is that something that you would support?

Mr. Jack Cook: No. In fact, what we are proposing is that we think casting the net to include all direct agreements is too broad. The real problem that we think the government ought to address is the misleading door-to-door conduct, and in fact those direct agreements ought to be what is specifically addressed in Bill 55.

Mr. Jagmeet Singh: I understand. So then you, I take it, would not be supportive of something that would broaden it beyond that to say that any agreement should be covered by Bill 55.

Mr. Jack Cook: No, we're not proposing that at this point.

Mr. Jagmeet Singh: Okay. You would not be in support of that type of amendment?

Mr. Jack Cook: To be honest, we haven't really given it much consideration.

Mr. Jagmeet Singh: That's fine.

Mr. Sean O'Brien: If I could just add some commentary: I think the value there is that if today my device isn't working, my water tank's not working, and I can't get my current supplier in and I call up Reliance to come and fix this thing, the way the language is written today is that I'd have to wait 20 days for me to get that replaced. So it's not helping me as a consumer, because it's my choice as a consumer versus—Bill 55 was more around the misleading practices of the door-to-door salespeople, for when an organization doesn't have a strong code of conduct and behaviours behind that.

Mr. Jagmeet Singh: With the verification calls, I know you've kind of expanded on that in your supplementary submission about what you meant by the verification calls. My question is about the purpose or need for an independent verification call. Some companies are doing a verification call where there's no remuneration connected with it. There is no incentive if you get more calls in agreement; you're not going to get more money for that. They're just verification calls, but they're handled by the same company. You're advocating that it should certainly be independent; I think there's some support for that argument. What's your reasoning for the requirement that it has to be fully independent as opposed to all the other requirements—no remuneration, no financial incentive, but still be within the same company?

Mr. Sean O'Brien: Jack? Rob?

Mr. Rob Jutras: Yes. I think it's important that the verification call be done by an independent third party so you have a real verification. The customer knows that they're switching providers, they know the terms and conditions about which they are about to enter into, they know the price and they know the exit, to the point that

was made earlier around the conditions of the terms and conditions. I think a lot of the companies are doing verification calls today. I don't see this as a big incremental cost to those businesses. We're very supportive of it because you get a really clean and informed consumer out of that verification call.

Mr. Jagmeet Singh: Sure, and just to clarify—

The Chair (Mr. Garfield Dunlop): Okay, that concludes this round.

We'll now go to the government members; you have three minutes. Mr. Colle.

Mr. Mike Colle: I guess the question I have is that, even with this bill, you're still going to have door-to-door salespersons, right? What's to stop them from developing a new scam at the door, given that they always come up with a new angle to hoodwink consumers? Is there anything in here that can possibly be used as an inoculation against—you know there are going to be future scams. They'll never stop coming to the door, no matter what happens. So is there anything in here that we could put to basically almost pre-empt these guys that are scamming already? They'll probably look through the bill too.

Mr. Sean O'Brien: Right.

Mr. Jack Cook: Sure, I can answer that. Obviously, the creativeness of the door-to-door scammers is always impressive—

Mr. Mike Colle: It is, yes.

Mr. Jack Cook: —and you can't always anticipate what's going to happen. We think one of the loopholes we've identified is in the current regulations, where section 12 of the current regulations allows for the structuring of agreements under a different part of the Consumer Protection Act that would get you around all these protections that are set out in Bill 55. That's one proposal that we think we could use to kind of, in your words, inoculate against those kinds of workarounds by the door-to-door scammers.

Mr. Mike Colle: I just don't quite understand that. In good Canadian Tire English?

Mr. Jack Cook: Sure; I'll do my best. Right now, in the current general regulations under the Consumer Protection Act, there is a range of sections set out in the act pertaining to direct agreements and what we're talking about in Bill 55. The regulation says those don't apply to the extent that an agreement—say, a rental transaction for a water heater—is structured as a lease; more along the lines of a car lease, for instance. That is governed under a different part of the Consumer Protection Act. So we think that one opportunity for scammers intent on defeating the system would be to structure their agreements as those sorts of leases, to avoid having to comply with these consumer protection initiatives.

Mr. Mike Colle: And that's specified in which amendment that you have, specifically?

Mr. Jack Cook: That is the first suggestion in our written submission, in terms of the additional regulations that would be required.

Mr. Mike Colle: Okay. Thank you very much.

The Chair (Mr. Garfield Dunlop): There's time for a quick—

Mr. Sean O'Brien: If I could add commentary, I think the key is, are you building a legacy business? At Reliance, we're definitely focused on building a legacy business.

The other thing—and it's in our submission—is, is there a way to actually create some more regulation around what does a contract actually say, the process you have to go through in terms of explaining to the customer what we're actually doing, and making sure that there's a wide variety in terms of different languages, so that any consumer has access to, "Exactly what we are getting into?" I think that's one of the key amendments or suggestions we're making in our submission, as well.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much, gentlemen. That's your time. I appreciate you being here today.

NATIONAL HOME SERVICES

The Chair (Mr. Garfield Dunlop): We'll now go to the next deputation, from National Home Services, Gord Potter. Mr. Potter, we want to apologize; your name actually says "Patter" in the typing there.

Mr. Gord Potter: Oh, that's not a problem.

The Chair (Mr. Garfield Dunlop): We've lots of Potters up in my part of the province.

You have five minutes, followed by questions and answers from the committee members.

Mr. Gord Potter: Okay, thank you. Good afternoon. I'm Gord Potter. I'm the chief operating officer of National Home Services. I wanted to thank the committee for the opportunity to speak today on Bill 55, specifically schedule 2 of that bill.

We are an Ontario-based company. We supply energy-efficient water heaters and other equipment, primarily to the residential market—existing and new home builds. We have about 250,000 consumers in the province.

Our products are generally of the highest energy efficiency and Energy Star-rated products. They're packaged competitively; as a new entrant to the market, we have to compete for each and every customer we gain.

We currently have 19 sales operations and distribution centres in the province. We employ just over 600 people, and that includes hundreds of local HVAC and licensed technicians in small and large towns across the province.

A quick little bit of background for context: As you know, most consumers historically receive their rental water heaters from the two main utilities, Union Gas and Enbridge. In or about the years 2000 and 2001, those two entities sold off those large customer bases, about 1.2 million each, to two large suppliers, now the incumbent suppliers in the province.

In the last few years, we've seen an emergence of new competitors entering into the market to compete for those consumers' business. Of course, that growth benefits consumers. However, with the increased competition in the market, and facing a growing loss of this long-standing profitable customer base, the two large incumbents have responded with aggressive anti-competitive

practices, allegedly intended to protect consumers but in reality to stifle competition and consumer choice and safeguard, basically, their large market shares.

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As the committee is aware, both incumbent companies are currently facing litigation by the federal Competition Bureau for engaging in these practices. Strategically, one of the incumbent companies has, in fact, filed a six-person complaint to the bureau against several smaller competitors alleging misleading sales practices. One of those companies is National Home Services. Additionally, there continue to be ongoing lawsuits in the market, so it's a very litigious environment.

Similar to what occurs in most newly emerging markets, your smaller players will often employ a more direct sales method, such as door-to-door, to market their products. Over time, as the market matures and the companies mature, they'll expand out into telemarketing, direct mail, affinity programs, advertising and other sales channels to sell.

However, the clash between the large incumbents in the province trying to stop the loss of customers and, on the other hand, all the newer, smaller entrants trying to gain those same customers has created barriers and difficulties and frustrations for the consumers in this province, as they're caught in the middle.

The fact of the matter is, consumers have faced numerous issues, such as being double-billed, lost tanks, prolonged onerous processes for returning tanks, difficulty in cancelling agreements, alleged misleading and unethical sales practices, lack of disclosure, and have been subject to exit fees or buy-out fees of which they were not aware.

The fact, though, is that, through the media, consumer organizations and consumer agencies, there's evidence that both the large monopoly or incumbent suppliers, as well as some of the small entrants, have been the subject of those consumer complaints, not just the small new entrants.

So what we submit to you is that this is not a door-to-door issue, although it has primarily surfaced there. The root cause of the issue, and what we like to believe underpins the bill, is twofold. First, consumers are not being provided the information and disclosures needed to make an informed decision at the time of sale, and secondly, there are suppliers in the industry who do not employ, or may not be employing, adequate quality controls in the sale of their products.

In principle, we support the bill. However, the issue with the bill currently is that it only applies to direct agreements and, in essence, door-to-door sales. Basically, what will happen, if it passes as is, is that consumers who are sold in that manner will benefit from these new disclosures and mandatory requirements; consumers who are sold through other sales channels or means will not. Further, the protections expected in the regulations under this legislation which mandate higher standards for suppliers will only apply to those suppliers who are using that channel, and not for consumers who are sold through other markets, such as telemarketing and other channels.

In our view, and in my view personally, I think all consumers should be able to make an informed decision, especially in a new market where they've just only in recent years had the opportunity presented to them to choose something that was historically, for generations, just simply provided on a utility bill. They should all be informed, and they should all benefit from those standards. With that being said, we have some specific amendments we want to put forward for your consideration. Specifically:

Prescribe in regulation that there is full disclosure required of key contract terms and a mandatory recorded contract verification, and that, again, it should apply to all types of rental agreements and sales practices in the industry, such as telemarketing, remote agreements and direct agreements. However a consumer is sold, they should benefit from those minimum disclosures.

The cooling-off period, again, should apply to all sales agreement types and methods, not just direct agreements, as currently drafted.

The 10-day cooling-off period should remain in place. I don't personally believe a consumer needs 20 days or three weeks to make a decision. However, notwithstanding what the cooling-off period is, we believe that a consumer should have the right to choose to have the equipment installed during that period, should they choose and should the supplier be able to. As a protection for that consumer, we believe that the regulation should stipulate that if the unit is installed during that cooling-off period, the supplier, in verifiable form—so evidence that can be presented later—must reconfirm with that customer that they understand that their cooling-off period still applies and they still have the right to change their mind.

The Vice-Chair (Mr. Garfield Dunlop): Your time's getting wound up here, so—

Mr. Gord Potter: Is it?

The Vice-Chair (Mr. Garfield Dunlop): Yeah.

Mr. Gord Potter: Okay. For the last one, the consumer should have the right to assign an agent to act on their behalf as it pertains to managing matters with the existing supplier, including the return of the tank and account closure.

In closing—thank you, sir—we just have one more. The bill should prohibit the existing supplier from initiating communication with that consumer during the cooling-off period, to safeguard the consumer from any aggressive retention activities that occur. I've provided references there to what the CRTC ordered in the telecom industry, which stipulated similar protections for consumers. With that said, thank you for your time, and I'll answer any questions.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the third party. Mr. Singh, you have some questions?

Mr. Jagmeet Singh: Sure; thank you. I just wanted to start off with your concern regarding the cooling-off period. If your amendment was accepted, I think that the 10 days would not be something that people with be okay

with, but if we kept it at 20 days and allowed for consumers to choose to install their units but they still had the right and, on the delivery and installation of the new water heater, they were advised that they could still cancel and then have the original water heater replaced at no cost to themselves, is that something that you would be supportive of?

Mr. Gord Potter: Yes. We would support, as a new supplier, that if that customer chose to exercise that right, we would bear the cost, with no harm to the consumer, in putting back the old tank and removing ours.

Mr. Jagmeet Singh: Okay. The position has been brought up that really the brunt of the complaints around the sales has been door-to-door. Given that complaint, if the majority of the complaints are about door-to-door and improper tactics being used at the door, what would the rationale be to broaden it to all agreements?

Mr. Gord Potter: Because right now we do have a young industry, and similar to what we saw in telecom and other deregulated services, if you've got an immature market, you have a lot of new consumers. What this bill, in my view, says is that we need to raise that bar. My view right now is that a consumer who responds to a direct mail piece that says, "Call in and get \$50 off," versus a consumer that gets sold at the door or gets telemarketed is no more or less informed about that product, their rights and those key contract disclosures, regardless of how they're sold. So we're just saying that, simply put, all consumers should benefit from more disclosure: how much are the exit fees, who are you dealing with, what the all-in price is, and other things. All suppliers in the industry should be held to the same high standards.

Mr. Jagmeet Singh: And just for the verification calls, there has been an argument made—and there's some merit to it—that the verification calls should be done by a completely independent party. Even though one could have recorded calls, one could have a clear setup where there's no remuneration or no financial incentive given to the person; there's still that perceived non-bias of having an absolutely independent person. What's your perspective on that?

Mr. Gord Potter: My view is that the call is recorded from connection to disconnection. It's also made available to the ministry or other agencies. I certainly could be supportive of both. However, the one thing that needs to be pointed out is that there are a number of companies operating in the market who currently employ dozens of people who do that function today. Should it be mandated to be outsourced, you're going to end up with companies sending those jobs out-of-province, and we also have a number of people now that we have to find work for. So I would offer—

The Chair (Mr. Garfield Dunlop): That concludes your time in this round. We'll go to the government members. Mr. Colle?

Mr. Mike Colle: Thank you, Mr. Chairman. Your company—could you just explain in a nutshell what it does for people?

Mr. Gord Potter: What we do is, we sell water heaters and other equipment to people, to consumers in the

province. We also supply to several builders in the province for new homes.

Mr. Mike Colle: So how do you make your sale of water heaters?

Mr. Gord Potter: We primarily use the door-to-door channel, and we also do some telemarketing.

Mr. Mike Colle: What percentage of door-to-door as opposed to telemarketing? Any rough idea?

Mr. Gord Potter: It's in the 90%; the primary channel is door-to-door.

Mr. Mike Colle: Would you think that outside of your own company, in your experience, that is about the breakdown in most of the province—90-10?

Mr. Gord Potter: Yes, it is for all the newer entrants, generally.

Mr. Mike Colle: You're saying "new entrants." You mean new homes or new companies?

Mr. Gord Potter: No; I apologize. The new competitors or companies that have emerged over the last few years are all, for the most part, primarily using that channel. Your larger, more established players—I think one we just heard from was my peer from Reliance—do employ that channel to some degree. The other large incumbent does not; they ceased in 2010.

Mr. Mike Colle: This bill, though, would it therefore—I think you made a very solid recommendation that everybody should have the same protections, maybe, because they were solicited perhaps on the phone, through direct mail or whatever. I think that's a good point. But the thing is that this would at least cover most of the channels, the biggest portion of the market, right—the door-to-door?

Mr. Gord Potter: It would cover the door-to-door channel until all of those companies just started to start telemarketing the next day, or started a different affinity channel the day after. What we're saying is that we have a large base of customers who rent water heaters in the province. They've been sleepy for years and generations. They now have the opportunity—people are bringing this to them in one sales channel. If you direct regulation or legislation at that sales channel—and similar to, I think, some of the discussion you had with the folks before me—people may simply just change sales channels.

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Mr. Mike Colle: Just gravitate to telemarketing or whatever.

Mr. Gord Potter: Exactly. And there are a large number of transactions going on telephonically across the province by many of the suppliers. Those consumers, as I mentioned, are no less or more informed and should, in my view, benefit from those higher levels of disclosures.

Mr. Mike Colle: The only thing I find a bit inconsistent in your presentation is that you want to reduce the cooling-off period. You say 10 days is enough.

Mr. Gord Potter: Right.

Mr. Mike Colle: I mean, given the confusion that the average consumer has, including myself, about, "Do you rent? Do you buy? Which kind of water heater to use? Do you go to one of those new fancy direct on-and-off-

switch type things or do you go with the old standard?" how is the average person going to get up to speed in 10 days, to phone around and to—and, in fact, who do you phone to find out whether you got hosed or not? I don't know.

The Chair (Mr. Garfield Dunlop): Give us a quick answer here.

Mr. Gord Potter: That's a great question. Number one, these are currently renting; they've been renting for generations. Number two, I think we recognize that the US has a three-day cooling-off period for all consumer products and has for some time. Right across Canada, we're 10 days.

With the advent of this legislation and regulations, which will now prescribe a higher level of disclosures about those products, as well as higher quality, you're now in a position—which doesn't exist today—where suppliers will be required to ensure that there is full disclosure so that that customer has the information on day one to make a decision, and nothing stops them from—

The Chair (Mr. Garfield Dunlop): Okay. Thanks very much. We'll now go to the official opposition. You have three minutes, Mr. McDonell.

Mr. Jim McDonell: You talked about the need to allow for an agent. What would the functions of that agent be, or what do you see?

Mr. Gord Potter: Currently in many industries, and as the CRTC ordered in telecom, the rationale very simply is, the average consumer should not have to be familiar with or have to try to understand what those industry processes are with respect to the exchange or movement around the equipment. Our view is that that's the supplier's job, which is also what the CRTC's view was, and what they've basically said is that they ordered that suppliers have to accept and acknowledge agency.

So when I go to sell a service to a consumer, part of that service is, I'll look after those things for them. I should be able to go to the old supplier and say, "I'm acting on behalf of Mr. McDonell. Here is his tank. Let me know what his charges are, and let's close that account," and resolve those issues on behalf of the consumer instead of putting him in the middle and having him deal with both suppliers back and forth.

Mr. Jim McDonell: You also talked about—or you didn't talk about this; it has come up about what's a fair timeline to depreciate this equipment over.

Mr. Gord Potter: Yes, and I believe we usually look at the life of the asset, and without thinking too much about it, I think 10, 12 years is the right timeline to depreciate it—maybe as much as 15, if we look back, but I think that's generally the time frame.

But to the earlier point, those are, I think, one of the key things that need to be disclosed up front with the customer: Is it a term contract? If you were to terminate early, what are your options and what are the costs of those options? So they know, entering into the agreement, what those options are.

As we've mentioned in here, we should also make the new supplier obligated to ensure that they also understand what charges they're going to receive from the old supplier, and if they don't do that, then the new supplier should be obligated to reimburse the customer of those charges.

Mr. Jim McDonell: I know in the telecom industry, they've used straight-line depreciation. Does that seem to work for this industry?

Mr. Gord Potter: It should.

Mr. Jim McDonell: Over, say, 10 years?

Mr. Gord Potter: Yes.

Mr. Jim McDonell: You also talked about the 10-day cooling-off period, or 20, whatever it is. Somebody willing to sign off, for instance, if the water heater needs immediate replacement—I mean, nobody likes to go without hot water. So you think it's fair that if somebody signs off, needs the water heater, that they can simply ask for it to be replaced, and it's taken out and all the costs go back to whoever put it in?

Mr. Gord Potter: I believe that that's another complication presented in the current draft: the fact that you cannot police whether or not a unit was impaired or out of service or to whoever's interpretation of whether it was okay to replace it because they felt it wasn't working properly.

But what I am saying is, for people that were replacing, the consumer should not have to wait three weeks. They should have the right to choose, and they should be able to acknowledge that they want it within that period. As a protection, we're saying that the new supplier needs to confirm with that customer, in a verifiable form, that they still understand that they're entitled to that cancellation right regardless, and, should they cancel, that new supplier should put the customer back to their old situation.

On the repair front, that's a whole different ball game, because you've got somebody coming out repairing a unit that's broken and needs replacing. I think there's definitely an inequity there, because if that company is called to go in and repair it and replace it, the customer should not have 20 days to tell them, "Now that you've fixed me, you get to come back and take it out at your cost."

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much, Mr. Potter and members of the opposition. That concludes your time today, so thank you very much for that time.

Mr. Gord Potter: Thanks very much.

ENERCARE INC.

The Chair (Mr. Garfield Dunlop): We'll now go to EnerCare Inc.: John Macdonald and John Toffoletto. It's the big binder—the big presentation. That's theirs.

Good afternoon, gentlemen. You have five minutes for your presentation. At 30 seconds, I'll tell you when you've got to wrap up. Thank you.

Mr. John Macdonald: Thank you. Thank you for the opportunity to appear before this committee. My name is John Macdonald, and I'm the president and CEO of EnerCare. I'm joined today by John Toffoletto, our senior vice-president, general counsel and corporate secretary.

Based in Ontario and a TSX-listed company, EnerCare is a provider of water heater, furnace and air conditioning rentals to over 1.2 million Ontario households. For over 50 years, EnerCare and its predecessors, such as the Consumers Gas Company and Enbridge, had been providing water heater rentals in Ontario, earning an outstanding reputation for safety, service and reliability.

We're here today to express our strong support for Bill 55. The fact is, Ontario homeowners have experienced highly aggressive, deceptive and, in some cases, fraudulent sales practices by many companies that sell water heater contracts at the door. At its core, Bill 55 is about creating transparency for consumers so they can become informed consumers.

Consumers have the right to know that it is a salesperson at their door, and who they represent. It's not a TSSA inspector, Enbridge, or any other government authority. Consumers have the right to know they're actually contracting for something, not simply replacing equipment with no strings attached. Consumers have the right to know what the terms of the contract are.

These are all very basic things, but what you've heard from a number of independent voices, to use the words of MPP McDonell, is that consumers do not know these facts because of the tactics of a number of door-to-door water heater salespersons.

You've heard from consumer advocacy groups, such as the Consumers Council of Canada and the Homeowner Protection Centre, that the situation is dire. Industry Canada funded the Homeowner Protection Centre to conduct an investigation, which is in tab 3 of our submission. You've heard from regulatory authorities, such as the TSSA, that these abuses undermine public safety. You will have heard that police organizations across Ontario regularly issue warnings to consumers about water heater salespeople using aggressive and misleading tactics to gain access to people's homes. Numerous examples of this are in tab 4 of our submission.

You will also have heard that the Competition Bureau, following an extensive investigation, obtained and executed search warrants against a number of companies on the basis that these companies knowingly or recklessly made materially false or misleading representations to the public in relation to door-to-door water heater sales. There have been almost daily media reports warning consumers about these door-to-door rental sales. Certainly we know that members of the committee have heard many complaints from constituents about these activities.

Mr. John Toffoletto: All of these independent voices, all of these commercially non-interested voices, have told you how bad it is, and yet you have also heard from some companies who say that these issues are not as pervasive and serious as these independent voices say that they are, and that comprehensive protection is not warranted.

Quite simply, such a position does not make sense. These companies claim support for the concept of consumer protection, but their statements and recommendations would most certainly undermine it and allow the abuse to continue. Either we believe the independent groups like the Homeowner Protection Centre, the TSSA, the police, the Competition Bureau and numerous constituents that have raised these issues in your respective ridings, or you share the view of these other companies.

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Some of you may remember that problems like these used to exist in the retail energy market for gas and electricity.

The House passed legislation in 2010 to crack down on this behaviour, and the number of complaints has dropped dramatically. That legislation sets the standard to be followed here. You have the same problems perpetrated by many of the same players; the remedy to be followed here must be the same.

We have identified seven potential amendments, or future regulations, that will accomplish this. Our amendments are in tab 1 of the materials we have submitted before the committee. The measures we proposed were introduced in the retail energy market and have the support of consumer advocacy groups like the Homeowner Protection Centre. They are not anti-competitive, but they are pro-consumer.

The Chair (Mr. Garfield Dunlop): You have 30 seconds.

Mr. John Toffoletto: Taken together as a package, the proposed measures and our submission under Bill 55 will create the same degree of consumer protection in the water heater market that exists in the retail energy market.

These problems have gone on long enough. Ontarians deserve protection from these predatory practices, and they need action now. Mr. Chair, we urge the committee to pass the bill with the proposed amendments. Thank you for your time. We would be pleased to answer your questions.

The Chair (Mr. Garfield Dunlop): Thank you so much, gentlemen.

We'll now go to the government members. You have three minutes.

Mr. Mike Colle: Thank you, Mr. Chair.

Thank you for this extensive bible here of all you ever wanted to know about water heaters. God—

Mr. John Macdonald: It's a fascinating subject.

Mr. John Toffoletto: More like door-to-door abuses, but anyway.

Mr. Mike Colle: Talk about the tip of the iceberg or the bottom of the iceberg—I don't know—but this is fascinating stuff for water heaters. Maybe we need a whole new ministry of water heaters.

Has there ever been any serious legal action or convictions of these perpetrators of these scams that you know of? I mean, there are a lot of reports in newspapers about people calling in, alerting the police, alerting whoever they can. Have there ever been any kind of

repercussions, legally, for any of these perpetrators that you're aware of?

Mr. John Toffoletto: We know that certain salespeople have faced criminal charges. We have told you that the Competition Bureau is currently investigating three companies that do door-to-door sales. In obtaining the search warrants, they said that criminal provisions may very well have been breached.

Mr. John Macdonald: The challenge in many cases is that somebody may know that they've been deceived after the fact, but in order to pursue that claim, it's such a minor annoyance in consideration of the rest of their life—in other words, if they have to spend six days of their life pursuing a sworn-out complaint. In practice, most people are not that incented to fight for their rights. You can see the number of complaints to the ministry. It sort of demonstrates, with many thousands of complaints that are made to the Ontario ministry—and if you take the rule that for every one complaint, there are 10 people who didn't bother to even—

Mr. Mike Colle: They didn't call.

There has been no class action suit anytime that you're aware of?

Mr. John Macdonald: No.

Mr. John Toffoletto: The other actions—very often, we're dealing with abuses in respect to elder people and immigrants. There's a large embarrassment factor, as well, in terms of coming forward.

Mr. Mike Colle: It seems to me that the only way to deal with this is, therefore, with preventive measures up front rather than after the fact. Do you think the proposed bill—and given some of your amendments and others we've heard—will be enough to stop these actions? Or is it just going to be another slowdown? Do we have enough meat in here to put a serious halt to this type of predatory door-to-door stuff?

The Chair (Mr. Garfield Dunlop): You have 30 seconds for this answer, guys.

Mr. John Macdonald: We believe the proposed bill, with the amendments, will very much stem the abuses. Again, we look at the retail energy marketplace and, very much, similar types of rules dramatically reduced deception in that marketplace.

Mr. Mike Colle: Okay, thank you very much.

The Chair (Mr. Garfield Dunlop): Thank you very much, gentlemen.

We'll now go to the official opposition. You have three minutes.

Mr. Jim McDonnell: I noticed that one of the previous witnesses talked about the incumbents being involved with the Competition Act. Maybe you might have something to say on that?

Mr. John Toffoletto: We're not actually the subject of any competition action—

Mr. Jim McDonnell: Or have been in the past?

Mr. John Toffoletto: No, but Direct Energy is, and they've spoken to that.

Mr. Jim McDonnell: Okay. As far as some of the talk about some type of contract, it would involve some type

of depreciation or with direct sales, but also the same thing would apply to any heater that's replaced, having some type of contract so that the customer, the consumer, would be able to know just how long the contract was, what the end terms were, penalties, whatever. Any comments on that?

Mr. John Macdonald: Our practice is that if somebody is having a replacement water heater, they sign a new agreement so that they know what their rights and obligations are and our commitment to them.

Mr. Jim McDonell: I guess I'm having a challenge. If we govern somebody who goes door to door with specific rules and regulations of specific depreciation penalties, how can we not include them all? It shouldn't matter how you purchase your hot water heater; you should be able to know how you can get out of the agreement sometime in the future.

Mr. John Macdonald: Some of the protection associated with the door-the-door legislation is unique to the door-to-door industry in the sense that, if you're replacing a water heater, you've called your incumbent supplier, you know what product you've got and so you know who you're dealing with. It's a voluntary decision by you, and typically, if you're getting it replaced, there's a reason for that; it's not a voluntary position.

Mr. Jim McDonell: I guess my point would be: If you decide, eight years down the road, that you may want it different, or somebody calls at the door at that time, there should be some way of knowing, "What do I owe on this unit?" If there's nothing up front, how do you know that?

It's fine to address the door to door, but, of course, there are many different avenues: telemarketing—

Mr. John Toffoletto: To be clear, our contracts make abundantly clear the requirements on termination. I think that's right. That should generally apply.

Mr. Jim McDonell: So would you agree to a standardized contract across the board that would apply to everybody and specify certain items in it?

Mr. John Toffoletto: No, because I think you're limiting consumer choice in respect of that. I mean, I don't see—

Mr. Jim McDonell: I'm just talking about a contract that would tell you what your monthly fee is, how long the term is and what the buyout clause is, if there's any.

Mr. John Toffoletto: Actually, I think the regulations currently provide for that.

Mr. Jim McDonell: A standardized form?

The Chair (Mr. Garfield Dunlop): Thank you very much to the official opposition. We'll now go to the third party: three minutes, Mr. Singh.

Mr. Jagmeet Singh: Good afternoon. One of the things that has been brought up before is broadening the application of the bill to all agreements, not just limiting it to direct agreements. Your position on that: Do you agree with that or disagree with that?

Mr. John Toffoletto: I think we're generally in favour of broadening it. I do worry, in terms of the honourable member's comment earlier: Where else could

they go? I worry that they'll go there. If they can't do it door to door, they'll do it via telemarketing.

Mr. Jagmeet Singh: So broadening it would make sense?

Mr. John Toffoletto: Yeah, we think that's a good thing.

Mr. Jagmeet Singh: Okay. I've heard two arguments—counter-arguments—on the assigning of agents. On one side, in your package of materials, you say that assigning agents is an issue. It's a problem. It hurts a consumer. In your point number two, under the tab "EnerCare's written submissions," you say that it's not a good idea.

On the other side, I've heard that if you do assign an agent, it allows and facilitates the prevention of double-billing, because you have someone who can be the intermediary and make sure the arrangements are made. What's your argument for not allowing that?

Mr. John Toffoletto: Let me say this: The Homeowner Protection Centre—not a commercial party—which, again, studied this, says "ban agency." They studied this and said "ban it." They say that, because you shouldn't let a provider, whose self-interest may override that of the consumer, deal with it.

The reality is, agency does this: It allows all the misrepresentations to continue to be perpetrated, because the consumer never actually talks to anybody. They don't talk to their existing provider; they don't talk to Enbridge; they don't talk to anybody, and they never know that they're not just swapping out their water heater with an existing provider.

There's no complicated thing here. What you do, if you want to terminate, is call, get a number and return the tank. That's not complicated. You don't need an agent to do that.

Mr. Jagmeet Singh: Okay. It's often used in telecommunication—Bell and Rogers—where agency is often assigned. Why would it be okay in Bell's and Rogers' circumstances with land lines but not—

Mr. John Macdonald: There's a fundamental difference. Here you have the fulfillment of a product that may be intrusive to the home—it may require the movement of walls, the installation of new pipes. In the telecommunications business, there's a need. If one person disconnects—the preferred carrier disconnects from a customer—unless somebody connects, that person is left without long-distance service. So, firstly, you need to have a coordinating entity and, secondly, you have a physical product being delivered. In my view, the telecommunication example is a red herring for this.

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Mr. Jagmeet Singh: Sure. That's good. And new contracts: Would you agree that a new contract with an existing supplier should also fall within the protection of Bill 55? So if you've completed your end of an agreement with, you know, your existing water heater and you wanted to get another water heater, and your existing provider says, "We'll give you a new one," should that also be covered by Bill 55?

The Chair (Mr. Garfield Dunlop): A quick answer here, guys. Thanks.

Mr. John Toffoletto: Bill 55 is really geared towards door-to-door, so if you're simply replacing a water heater, a lot of these protections don't really come into play because you're not actually showing up at the door and misleading anyone.

The Chair (Mr. Garfield Dunlop): Okay, thank you. Gentlemen, thank you so much for coming this afternoon, and thank you to the committee members on this one.

ONTARIO REAL ESTATE ASSOCIATION

The Chair (Mr. Garfield Dunlop): We'll now go to the next deputation: Ontario Real Estate Association, Matthew Thornton and Johnmark Roberts.

Thank you very much, gentlemen. I'll just let these guys get out of here. There's quite a commotion—apparently they don't want to hear you. Matthew Thornton comes in the room and 10 people leave.

Mr. Matthew Thornton: That's right.

The Chair (Mr. Garfield Dunlop): Well, good afternoon, gentlemen, and thank you for your time. Matthew? Johnmark?

Mr. Johnmark Roberts: I'll be speaking this afternoon. Good afternoon. My name is Johnmark Roberts. I am the broker of record with B&B Associates Realty Ltd. here in Toronto and a member of the Ontario Real Estate Association's government relations committee.

Joining me today are Matthew Thornton, OREA's director of government relations, and Lou Radomsky, the association's outside counsel.

We would like to thank the members of this committee for inviting us to present on Bill 55, the Stronger Protection for Ontario Consumers Act, 2013.

To begin, OREA is supportive of Bill 55's amendments to the Real Estate and Business Brokers Act, or REBBA, which will permit our members to charge a combination of flat fees and/or percentage commissions. This change should give consumers more choice and flexibility when it comes to the real estate services they require.

The balance of our presentation focuses on a small amendment to the bill which we are recommending to this committee.

As you know, Bill 55 proposes amendments to REBBA to address the issue of phantom offers. Phantom offers are offers which have been fabricated by the listing sales representative to encourage potential buyers to rush or to increase the size of their offer. It is an unethical and unprofessional practice which OREA strongly condemns.

Bill 55 proposes a series of changes to REBBA designed to increase the level of transparency surrounding a real estate transaction and to address the perception that phantom offers are common in the marketplace. OREA supports more transparency and measures that will strengthen consumer confidence. However, OREA has serious concerns with section 35.1(2) of Bill 55, which

reads as follows: "A brokerage acting on behalf of a seller shall retain, for the period of time prescribed, copies of all written offers that it receives to purchase real estate." Section 35.1(2) would require listing brokerages to keep copies of all unsuccessful offers they receive on a property.

OREA has two specific concerns with this section.

First, OREA is concerned that section 35.1(2) will violate the privacy of a buyer who would be required to leave copies of their offer in the hands of a party to which they have provided no consent for retention of their personal information, and there are no contractual agreements protecting their interests.

Second, OREA is concerned that section 35.1(2) will impose a red tape burden on Ontario real estate brokerages. Brokerages in Ontario sold nearly 200,000 residential properties in 2012. Many of these were subject to multiple-offer situations, and it is not unknown for a property to generate over 20 offers from interested buyers. With some brokerages transacting over 100 properties a week, section 35.1(2) would create a staggering new amount of paperwork and administrative issues for our members to manage. The red tape burden could cost brokerages millions of dollars in office supply, record retention, record disposal and infrastructure costs.

OREA's proposed solution would address our industry's concerns while continuing to achieve the government's policy goals. Please amend section 35.1(2) to read: "A brokerage acting on behalf of a seller shall retain, for a period of time prescribed, copies of offers or other documents as prescribed that it receives to purchase real estate." This proposed amendment would provide flexibility to the real estate industry in consultation with the Ministry of Consumer Services and the Real Estate Council of Ontario to come up with alternatives to the retention of full copies of unsuccessful offers.

As an example, we have provided committee members with a draft version of a cover page to the OREA Form 100 – Agreement of Purchase and Sale. This cover page would provide important information about the property, the buying and selling brokerages and when the offer was presented. It would then be retained by the selling brokerage after the offer was presented to comply with section 35.1(2).

In the event that RECO was investigating an allegation of a phantom offer, the selling brokerage would produce these cover pages to verify the existence of offers on their property. In doing so, this cover page or another document as prescribed would be both a deterrent to the practice of phantom offers and an investigative tool for prosecuting unethical sales representatives.

The red tape burden on Ontario real estate brokerages will also shrink from hundreds of pieces of paper per property to just one page per offer.

The Chair (Mr. Garfield Dunlop): Thirty seconds.

Mr. Johnmark Roberts: For these reasons, we urge all three parties to support this proposed amendment to section 35.1(2).

In closing, OREA would like to acknowledge Minister Tracy MacCharles and her staff for their efforts to engage

our association in a productive dialogue on this issue. Moreover, we would also like to acknowledge Mr. Singh and Mr. McDonell for meeting us and listening to our concerns.

Thank you, and I am happy to take any questions you might have.

The Chair (Mr. Garfield Dunlop): Thank you very much, gentlemen. We'll now go to the official opposition. Mr. Barrett, you have three minutes.

Mr. Toby Barrett: Thank you, Chair. First of all I want to commend OREA for your strong condemnation of this phantom offer business as unethical and unprofessional. I think of so many young people trying to buy a house, get a mortgage, insurance, water heaters and everything else, and to be presented with inaccurate information and they end up buying something that, it turns out, wasn't worth that in the first place. So I commend you for saying that in your brief.

Then you list the red tape problem with so many unsuccessful offers, but how do you keep track of these offers now? The real estate agents just keep them in their head? There must be some kind of a paper trail, or in a computer somewhere, anyway, isn't it?

Mr. Johnmark Roberts: With unsuccessful offers, it varies from person to person to person. My best practice is, I keep a copy of every offer that I've presented, but that's not necessarily the case because the paperwork adds up. If you're working with one client and they're unsuccessful in five or six properties, confusion can reign as to which is the valid offer when it finally comes down to doing things. So you have to keep your filing system and you've got to regularly dispose of these because, as I say, it does build up.

Mr. Toby Barrett: But you're talking about hundreds of properties a week. That must involve many, many real estate agents—

Mr. Johnmark Roberts: No. Right At Home brokerage—I know this because I was talking to the manager of the Don Mills branch—in July, they were processing 365 deals a week.

Mr. Toby Barrett: How many salesmen is that?

Mr. Johnmark Roberts: They have 2,500 salespeople.

Mr. Toby Barrett: They have 2,500?

Mr. Johnmark Roberts: Yes. The Toronto Real Estate Board currently has a membership of around 38,000.

Mr. Matthew Thornton: Just if I could jump in, Mr. Barrett, on one of the challenges with retaining copies of unsuccessful offers on a property: Just to give you an example, I know it's common practice in the GTA and other areas where there are a lot of competing-offer situations for the buyer's agent to go into an offer presentation, present their offer to the selling agent and then leave with a copy of their offer. So they don't actually leave the offer in the hands of the selling brokerage.

What we're proposing, as an example of an alternative, is to attach a cover page to the offer sheet itself. The selling broker would then retain that cover page to

comply with this section, instead of the full offer itself. Going back to my example, if we were to leave the section as is, the selling broker would have to actually chase the buyer's agents to get those copies of those offers back, and that presents a whole host of other challenges.

The Chair (Mr. Garfield Dunlop): Just a quick question here.

Mr. Toby Barrett: Just very quickly: You're a self-regulating body?

Mr. Johnmark Roberts: No. We're governed by RECO, which is a DAA.

Mr. Toby Barrett: Pardon?

Mr. Johnmark Roberts: The Real Estate Council of Ontario is a DAA in the province, and they are our licensing and registrar.

The Chair (Mr. Garfield Dunlop): Okay, thank you very much, gentlemen. We'll now go to the third party. Mr. Singh?

Mr. Jagmeet Singh: Thank you. I just want to go over it again. I understand this alternative form would satisfy the definition of "another document as prescribed," and this document's cover page would be proof that an offer was placed.

Just walk me through: You keep a copy of all the offers yourself?

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Mr. Johnmark Roberts: Personally, as a best practice, I do, but realize that, if I'm representing a buyer, I don't leave a copy of my offer behind. Also, because it contains personal information in regard to the buyer, I don't keep it that long. These records build up.

Mr. Matthew Thornton: I think, Johnmark, you keep offers when you're representing a buyer's agent.

Mr. Johnmark Roberts: As a—

Mr. Matthew Thornton: Or as a buyer's agent, he's keeping a copy of all the offers he's presented.

Mr. Johnmark Roberts: It's not in the best interests of my buyer to leave a copy of the offer on the table.

Mr. Jagmeet Singh: And explain why it's not in the best interests.

Mr. Johnmark Roberts: A lot of factors. My buyer may be competing on two properties at the same time, or that evening. If an offer is on the table, an offer is good for a time period, an irrevocable time period. By walking out with the offer, (1) it doesn't leave the listing agent the capability of playing my offer against another offer, because it's not in their hands anymore; and (2) it gives me the flexibility to work on behalf of my client in their best interest, because they want one of the two houses or something like this.

Mr. Jagmeet Singh: Okay. Now, just to put it in a frame—if you want to frame it as a consumer protection, I think what I'm getting from this is that it would actually be contrary to consumer protection if there were records of their agreements out there in the world. Can you just frame it in that sense? How would it be contrary to consumer protection if consumers who were making offers on properties—if those offers were being retained, how would that hurt consumers?

Mr. Johnmark Roberts: I work in the Toronto market, which has areas that can be very hot. The information contained in that offer—first of all, if you leave it with a listing brokerage, the listing brokerage has no duties or responsibilities to the buyer's broker, period. It's the buyer's brokerage that has all those duties and responsibilities, so they have no duty or responsibility to protect the buyer in any way whatsoever. So you're leaving personal information in their hands.

As far as that goes, I don't want that personal information to be on the street two days or three days later when my people are competing again for another offer and have that information: that they can afford to go up to this or will do these types of things in the offer. That information does get out to a certain degree in the marketplace, but if you have it on paper available to a listing brokerage, which doesn't have any duties available to protect it—

Mr. Jagmeet Singh: And one last area—

The Chair (Mr. Garfield Dunlop): Thirty seconds.

Mr. Jagmeet Singh: Thirty seconds? How would this prevent against phantom offers, if you wanted to know that the price wasn't inflated because there were these offers that were fake, that were high? You couldn't show the actual price, though.

Mr. Matthew Thornton: I think, in terms of the content of the form itself, that's something that we're open to discussing and working with RECO and the ministry. Whether or not the price finds its way onto the form itself is, I think, a topic for discussion. I can tell you right now that it's not permitted under REBBA to disclose the content of an offer to another competing agent, so there would have to be additional changes to REBBA in order to permit that practice.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Thornton. We'll now go to the government members. Mr. Colle, you've got three minutes.

Mr. Mike Colle: I guess that's the same thing—that's it's a bit complex. We agree: We want to stop the phantom offers from taking place, and they do take place in a hot market, right?

Mr. Johnmark Roberts: Yes. It's hard to get a grasp of the numbers, but the Real Estate Council of Ontario, since 2004, has investigated four times. It's not as huge, but it does occur. In certain areas which are hot—on the street? Yes, it's happening.

Mr. Mike Colle: So, therefore, you're in agreement: There could be a way found without all that pretension of all those full offers, and storing them and keeping them. There might be a way of actually recording certain offers that were made, keeping your concerns about the competitive advantage of the salesperson.

I think you've been talking to the ministry about trying to find a midpoint which ensures that these phantom offers are screened out and perhaps stopped, at the same time giving assurances that these offers are going to be tracked somehow, and that it's not going to be a burden to you. Are you having those discussions right now?

Mr. Johnmark Roberts: Discussions are occurring with the ministry and with RECO, and under way. We've

been expressing our concerns and trying to resolve the concerns. One solution we came up with was other documents, such as this cover page. Whatever document would have to be worked out with RECO and the ministry so it's acceptable to all parties, but the whole point is to provide a paper trail so that RECO can investigate, and where you have something in writing in cases of fraud.

Mr. Mike Colle: Yes. So, in essence, there can be a way of finding a methodology with a paper trail that's convenient and practical for you, and at the same time the government has that paper trail of offers etc.

Mr. Johnmark Roberts: Yes. It would combine a form or a paper trail plus directions from our registrar detailing procedure to incorporate.

Mr. Mike Colle: So that could be worked out through regulation—

Mr. Johnmark Roberts: All through regulation.

Mr. Mike Colle: —and through your proposed amendment, and then coming up with background reality additions.

Mr. Johnmark Roberts: That's correct.

Mr. Matthew Thornton: Yes. The important thing to stress is that the amendment—right now, the section says only offers, and we're proposing that small change to give that flexibility, so that we can enter into those sorts of conversations around prescribing regulations that are going to clarify a cover page or another form that all three parties can agree on.

Mr. Mike Colle: So it is doable?

Mr. Matthew Thornton: It is very doable, yes.

Mr. Mike Colle: Okay, thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much, gentlemen.

Mr. Matthew Thornton: Thank you.

Mr. Johnmark Roberts: Thank you.

The Chair (Mr. Garfield Dunlop): That concludes your time this afternoon. Thanks for attending.

RUMANEK AND COMPANY LTD.

The Chair (Mr. Garfield Dunlop): We'll now go to the next deputation, which is Rumanek and Company. Jordan Rumanek is vice-president. Mr. Rumanek, how are you doing? You'll have five minutes for your presentation and three minutes from each caucus's members. I'll try to warn you.

Mr. Jordan Rumanek: Okay. Good afternoon, Mr. Dunlop and standing committee members. My name is Jordan Rumanek, and I am a licensed trustee in bankruptcy, an administrator of proposals and an insolvency counsellor.

Interruption.

The Chair (Mr. Garfield Dunlop): Okay, guys. Go outside with that, okay? Excuse me. Can we just get everyone to go outside to do their chatting?

I'll let you start again. Thank you.

Mr. Jordan Rumanek: Thank you. Good afternoon, Mr. Dunlop and standing committee members. My name

is Jordan Rumanek, and I am a licensed trustee in bankruptcy, an administrator of proposals and an insolvency counsellor. I have practised in the field of insolvency for more than 20 years and am currently the vice-president of Rumanek and Company Ltd., which operates nine offices of Ontario. I'm also on the board of directors of the Ontario Association of Insolvency and Restructuring Professionals, also known as OAIRP.

My colleague Daniel Weisz told the committee last week that trustees in bankruptcies are appointed and legislated by the federal Office of the Superintendent of Bankruptcy, a division of Industry Canada. I'm pleased to be here today to talk to you about Bill 55 and, in particular, the proposed amendments to the Collection Agencies Act. We support this bill and would like to see it passed.

I would like to present the committee with an example that better illustrates our concerns. David came to my office after an experience with a debt settlement company. He told me how he liked that they presented a friendlier alternative to the more formal restructuring options available. He owed \$54,000. He signed the debt settlement company's documents without fully comprehending them, and began making monthly payments of \$1,350.

He was told to stop all other payments and ignore the collection calls. After three monthly payments, totalling over \$4,000, David's wages were garnished. It seemed that the debt settlement company had not yet contacted David's creditors. David learned that the company's policy was not to contact the creditors until they collected a large sum of money for their clients, regardless of how long it would take. David abandoned the settlement soon after, and came to see me. By then, he was out more than \$4,000, with no action taken on behalf of the debt settlement company.

Many of the depositions that this committee has heard on debt settlement companies surrounded the unregulated upfront fees. This leads to other issues, such as lack of accountability. Regulation of fees can go a long way to protect consumers.

Under the Bankruptcy and Insolvency Act, consumer proposals are based upon tariff. Debt settlement companies should be similarly regulated. The Bankruptcy and Insolvency Act outlines administrators' fees as follows:

- \$750 on signing, but generally not taken until a significant payment has been received from the debtor;

- a second \$750 payable on the approval of the consumer proposal by the court—again, generally once the funds are available; and

- lastly, 20% of monies distributed to the creditors under the consumer proposal.

This formula works. Debt settlement companies' fees ought to be similarly structured, with a reasonable upfront fee, a similar payment upon approval, or refunded to the debtor if the settlement is not approved by the creditors, and a reasonable percentage of any payments distributed to the creditors.

This structure addresses several issues. It fixes initial fees to a reasonable and manageable amount; it encour-

ages timely contact and negotiation with creditors; it discourages the collection of payments without accountability; it allows the debtor to know within a reasonable time whether formal arrangements such as a consumer proposal or a bankruptcy will be necessary; and the debtor is spared making payments while unknowingly getting no service in return and jeopardizing his or her assets or income. A regulated fee structure will address the bulk of these concerns with the debt settlement companies.

I'd like to address one of the questions posed to my colleague Mr. Weisz last week at this committee. MPP Jagmeet Singh had asked whether the debt settlement legislation was better served as a separate bill rather than being included as part of the Collection Agencies Act. We believe it would best serve the people of Ontario to include the amendments in Bill 55.

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Regulation of this industry, and enforcement of that regulation, is needed now for the protection of Ontario consumers. Our concern is that the introduction of new legislation will continue to leave financially troubled residents exposed to the practice of upfront fees until legislation is tabled and passed.

I'd like to thank the committee for hearing me this afternoon. I'm happy to answer any questions.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Rumanek. We'll now go to the third party. Mr. Singh, do you have questions?

Mr. Jagmeet Singh: Sure, yes. Thank you. One of the issues that you've laid out is a way to address the upfront payment. I guess that's one of the major issues with debt settlement services, the setting aside of funds without any clear indication of whether or not the creditor knows that there's an agreement or whether there is an agreement, and there's a lack of transparency—

Mr. Jordan Rumanek: Correct.

Mr. Jagmeet Singh: So what you're proposing is a similar structure that trustees use?

Mr. Jordan Rumanek: This would be administrated as a consumer proposal under the Bankruptcy and Insolvency Act.

Mr. Jagmeet Singh: Okay. What I had asked your colleague before was that, in terms of the regulation—not what they can or can't do, but in terms of the regulation of debt settlement services. Collection agents have to be registered, and there is legislation that outlines what they can and can't do and what their registration is all about, their licensing is all about. But for the licensing of debt settlement services, right now it falls underneath collection agents. I was questioning whether or not there should be a separate legislation to license debt settlement services that's not collection agency-related. That was a separate issue, I think.

In terms of the services provided, would you agree with me that there are some models, in terms of services that debt settlement service companies provide, that are effective and that actually work, and whereas there are other models that have been the subject of complaints?

Mr. Jordan Rumanek: I think the model that is subject to complaint that was brought up even last week was the debt-pooling model. That's where the money is just put in this pool and nothing's being done—in my example here with David, where nothing's being done; he puts money in, and no contact.

There was another example of the informal proposal. I'm not sure how the company that made that presentation last week structured it. He's using the words "informal consumer proposal," which is very similar to what a consumer proposal is. I'm not sure how it is structured. I'm not sure what their fees are, what their fee structure is. I'd be curious to know.

Mr. Jagmeet Singh: Okay. I think you're absolutely right, though: The complaints have been with the debt-pooling mechanism, and then your example that you've provided here is also an example of debt pooling.

So while debt pooling is a problem, there could be other—I think in your proposal, the proposed amendments, you're actually allowing for there to be another way that people structure these services that could be beneficial, and you're providing a way for them to be reimbursed in a meaningful and organized way, I guess.

Mr. Jordan Rumanek: And transparent, so the debtor actually knows what's going on. I think the biggest complaints that I've heard is, "I didn't know what they were doing. The creditors kept on calling me." There just wasn't the feeling of the communication and the understanding of what was going on. I think that it really starts with, when the debt settlement companies get money, and it's in their pockets, their initiative to work kind of decreases.

Mr. Jagmeet Singh: So just as a trustee in bankruptcy—I know this is a bit of a loaded question for you—do you see a benefit to proposals that aren't official through a trustee in bankruptcy, that could be worked out without having to go through a bankruptcy trustee?

Mr. Jordan Rumanek: Of course. In this industry, there are many options. Some people don't know what a consumer proposal is, and they read this advertising, or have a friend—there's always some place for it. But to have it regulated, and the transparency, the communication and the understanding I think is the most important.

People are in debt, and they're looking for a solution. That's the main thing here. Have a solution that's well defined and that is understood by everybody.

The Chair (Mr. Garfield Dunlop): Thank you very much to the—

Mr. Jagmeet Singh: I think your measured responses show your objective nature.

The Chair (Mr. Garfield Dunlop): Thank you so much. Now we'll go to the government members: Mr. Bartolucci and then—

Mrs. Amrit Mangat: Then me.

The Chair (Mr. Garfield Dunlop): Okay.

Mr. Rick Bartolucci: Thanks very much, Garfield.

The Chair (Mr. Garfield Dunlop): Okay. Thank you.

Mr. Rick Bartolucci: Thank you very much, Mr. Rumanek, for your compelling presentation. You're a trustee, so obviously you're very cognizant of dignity in difficult times with the people that you interact with. I'm a bit of a novice at this particular area, so I'm wondering: When is debt settlement better than a bankruptcy or a formal consumer proposal? Or is it ever better?

Mr. Jordan Rumanek: That's more of a loaded question than MPP Jagmeet Singh's. You're comparing a consumer proposal under the Bankruptcy and Insolvency Act, which is government-regulated under the Bankruptcy and Insolvency Act—court involvement and creditor involvement. It's a federal act. An informal proposal is whatever I decide to do and whatever the creditors agree to accept. I'm not sure what structure there is in an informal proposal. If I was doing an informal proposal, I would base it on the Bankruptcy and Insolvency Act. It works. It's federal. The creditors understand the process of filing what we call a proof of claim saying how much money is owed. There are people signing papers. They vote on a proposal. They sign a voting letter. It's so much communication between the trustee or administrator and the creditor in the Bankruptcy and Insolvency Act for a consumer proposal. With an informal proposal, I'm not sure what they're doing. It would be nice if there is this discussion, regulation and signing of pieces of paper going back and forth between the administrator and the creditors. I just don't know if it exists.

Mr. Rick Bartolucci: Okay. So, do you discuss options with the—

Mr. Jordan Rumanek: Oh, yes. The majority of the trustees advertise the first appointment as free. The first appointment is to gather information and discuss alternatives. I always say to a debtor, right away, "One of the alternatives is to do nothing. You can always do nothing. You don't have to do anything." If somebody is unemployed and has no assets, they're judgment-proof. So there is always the option to do nothing. It's if they want to do something—if there's a creditor that's harassing them, if there's somebody garnishing their wages, that's when they want to do something. A lot of people don't want the stigma—I'll call it the B-word, bankruptcy—and that's where the alternatives are there. But there are many options.

Another option is a consolidation loan. Most likely, if they're coming to me, that route of the consolidation loan has already been tried and refused by the bank, for whatever reason—lack of income or the debt as a ratio. But there are always options. Under the BIA, I actually have to give the options to the debtor when we provide assessments. So every single person that comes in my office is given more than just a bankruptcy and proposal option.

The Chair (Mr. Garfield Dunlop): Thank you very much to the government members. We'll now go to the official opposition. You have three minutes.

Mr. Jim McDonell: Thank you for coming out. You talked about the percentage of the payments for a reasonable fee. Is there an incentive, then, for the agent to get

what's best for the client—say, if you owe \$100,000 and the more you gather from the consumer and pay back, the more money you make? I'm saying, you really should be serving the consumer and not the creditor.

Mr. Jordan Rumanek: In your example of paying back more money to the creditors, well, doesn't everybody benefit? You have the creditor who is getting more money; most likely the trustee is doing a little bit more work and he'll be compensated accordingly; and the debtor is actually not filing for bankruptcy. He's filing a proposal and giving back something to the creditors as opposed to nothing. So I would think in that situation, every stakeholder benefits.

Mr. Jim McDonell: Well, generally, if I'm hiring an agent or a lawyer, I'm looking for the best deal that I can get. You know, that's the purpose. So I'm just wondering—it seems to be counterintuitive. Who would pay that 20%? Is that coming from the consumer or the creditors or—

Mr. Jordan Rumanek: Under the Bankruptcy and Insolvency Act?

Mr. Jim McDonell: Well, under your proposal here.

Mr. Jordan Rumanek: Well, under the Bankruptcy and Insolvency Act, it's the debtor making the payment to the administrator or trustee, and the trustee would be taking that percentage for doing the work of the distribution to the creditors. So this number of 20% has been since 1998. This percentage hasn't changed in over 10 years.

Mr. Jim McDonell: Okay.

The Chair (Mr. Garfield Dunlop): Mr. Barrett?

Mr. Toby Barrett: Thank you. I appreciate your presentation and the presentation last week from Mr. Weisz as valuable advice for this committee.

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Just very quickly, you used the analogy—you talked about David coming to your office with this debt and being presented some restructuring options. I guess my question is, what advice would you have if somebody like Dalton or Kathleen came into your office and explained—

Mr. Grant Crack: Out of order, Chair.

Mr. Toby Barrett: —that they were staring down the barrel of a \$411.4-billion debt in the next four years? What advice would you have, in your experience?

Mr. Jordan Rumanek: Considering that I only deal with individuals—

Interjections.

The Chair (Mr. Garfield Dunlop): If you want to try, you can answer that question.

Mr. Jordan Rumanek: I wouldn't have an answer to a \$4-billion debt load, no.

Interjection.

Mr. Jordan Rumanek: Depending on whether it's a bankruptcy or a proposal.

The Chair (Mr. Garfield Dunlop): Thank you very much.

CANADIAN ASSOCIATION OF DEBT ASSISTANCE

The Chair (Mr. Garfield Dunlop): We'll now go to the next presenter, the Canadian Association of Debt Assistance: Richard Cooper, Mr. Petrescu, Mr. Blais and Ms. Pietersen. I hope I got that right. You folks have three minutes, please.

I'll give you a 30-second warning. Proceed. Thank you.

Mr. Richard Cooper: Good afternoon. I'd like to begin by thanking the committee for the opportunity to be here today to speak to Bill 55, the consumer protection act. As mentioned earlier, my name is Richard Cooper and I am both the chairperson of the Canadian Association of Debt Assistance, or CADA, and the owner-operator of a debt settlement company, Total Debt Freedom.

With me today are three of my clients. We've got Larissa Pietersen, Henry Blais and Eugen Petrescu right beside me, who are prepared to share their personal experiences with our services during the question-and-answer phase. I am here on their behalf.

As you may be aware, CADA serves as the national voice of Canada's responsible debt settlement sector. Primarily, we're here today to support Bill 55, which codifies policies and procedures that already exist in our internal code of conduct. Anything that we can do to get the bad apples out is to be applauded.

That being said, we are deeply concerned that there are a few loopholes in the act which, if left unaddressed, will expose consumers to significant fiscal risk, which runs completely contrary to the objectives of the legislation.

Our primary concern is related to transparency. As you may know, there are two types of agencies that provide support to debtors: debt settlement services, such as the services I provide to my clients, and credit counselling agencies, which provide both debt settlement and general support to those facing a debt issue.

Debt settlement services work only for the client. We are advocates who are retained by debtors to get the best possible settlement on debt, which in plain English means the smallest amount. By and large, our clients have already paid for their debt several times over in interest payments and are stuck paying rates established by credit card companies that are extraordinarily high.

Needless to say, credit card companies do not look kindly on people like me because my job is to stop them from squeezing money out of people who will not survive being placed in a debt cycle for 30 years. CADA members do work that performs a vital social function by ensuring that just because one might be caught in debt, they are not less than others, and that they know that there is someone who will work for them, not against them.

In this work, we're totally accountable only to our clients, those citizens who need someone to stand up for them and only for them. While this means that citizens in debt may often pay less than their total supposed debt, I

believe that sometimes, in an era of easy high-interest credit cards, consumers can take on more credit than they should. However, this does not mean that they should be slaves to credit card companies for the rest of their lives. That's why I am proud of the work that I do to put money in the hand of the little guy, rather than the big bank.

Credit counselling services, on the other hand, perform a different function: They offer general support to those having difficulty managing debt. This is good work and we believe that it should continue. However, most of these agencies negotiate long-term payment arrangements between debtors and creditors, which is, in essence, a debt settlement agreement. The end result of this is debtors paying significantly more over a longer period of time and doing more damage to their credit rating than they would with a debt settlement service.

Publicly, this is presented as a positive thing, as it encourages consumers to pay the entirety of their debt, including compounded interest. I see how this benefits lenders; I struggle to see how this is beneficial to the consumer.

What is so problematic about this from our perspective is that the vast majority of credit counselling services hold themselves out to be either not-for-profit or charities. This creates a false impression amongst debtors that these agencies operate solely on debtor donations, which is truly not the case. Indeed, a significant proportion of revenue for credit counselling agencies comes from donations from the credit issuing agencies themselves—upwards of 60%, according to an earlier deputation to this very committee. One must only look at the boards of these not-for-profits to see that on each of them is a representative of a lending institution, which, to my understanding, is a condition of their annual donations. This creates a fundamental conflict, in our opinion, one that needs to be addressed, as creditors want to get as much money as possible; it's simple logic.

To facilitate transparency and equality, we would like the bill amended to include the notion of credit counselling agencies as part of the act and the mandatory disclosure of funding sources. This will ensure a level playing field; also, the consumers are given accurate information about who is funding the advice they receive. If we do not do this, we may as well amend the title of the bill to be the creditor protection act, because that's who it's truly going to help.

Moreover, we would like to ensure that any fee cap imposed, which we support, is applied to all agencies arranging payment between debtors and creditors. Being a member of CADA or a member of OACCS should not grant either a not-for-profit or a private agency the right to charge more. Instead, we'd like to see the fee cap imposed on direct and indirect fees. After all, if the rules are fair, then they should be applied to everybody. That is acceptable to all responsible participants in this sector. Otherwise, we could create a dynamic in which credit-granting institutions may be able to leverage their extensive capital to co-opt debt settlement or credit counselling agencies.

In closing, I would encourage each of the committee members to review our background package, which will define in greater detail the specific amendments we believe are necessary, as well as information as to why we strongly feel the changes are both necessary and in keeping with the stated spirit of the act.

With that, I'd like to thank you again for the opportunity to present, and I welcome your questions.

The Chair (Mr. Garfield Dunlop): Thank you very much, sir. We'll now go to the government members. You have three minutes for your questions. MPP Mangat.

Mrs. Amrit Mangat: Thank you, Mr. Cooper, for your presentation. My question is, can you describe the typical services provided by your members?

Mr. Richard Cooper: The typical services—an average client would get into our program with \$30,000 worth of credit card debt, unsecured debt, and three years later they would graduate totally debt-free for roughly about half of what they owe, including the debt settlement fee.

Mrs. Amrit Mangat: How do they charge for the services provided?

Mr. Richard Cooper: The fees are charged monthly throughout the life of the program.

Mrs. Amrit Mangat: Up front or after providing the service?

Mr. Richard Cooper: I'm not sure where the upfront conversation came from. It sounds like a fear-mongering ploy from credit counsellors and credit card companies. There is no fee charged up front by any debt settlement company that I'm aware of. The fees are collected over the life of the program.

Mrs. Amrit Mangat: Okay. And what is the business cost associated with that?

Mr. Richard Cooper: The business cost with settling debt?

Mrs. Amrit Mangat: Yes.

Mr. Richard Cooper: It's extraordinary. We probably do about 80% of the work before the first settlement is even finalized.

Mrs. Amrit Mangat: No, my question is with regard to your members. When your members provide a service, what is the business cost associated with that?

Mr. Richard Cooper: Oh, the fee we charge a client?

Mrs. Amrit Mangat: Yes.

Mr. Richard Cooper: It's 16% of the debt that's enrolled in the program, and that's collected over the life of the program. So it's actually considerably less than what a bankruptcy trustee charges for a consumer proposal, and we're getting paid by the client. It's less than what credit counsellors charge.

Mrs. Amrit Mangat: My understanding is that other jurisdictions, such as Alberta and Manitoba, have implemented debt settlement rules. Can you shed some light on how that has benefited consumers or harmed consumers?

Mr. Richard Cooper: Well, we haven't seen any benefit to that. We actually had clients in Manitoba when we were licensed there. When they made that unilateral change to the legislation, we weren't given an opportu-

ity to speak on it like we are here. So we notified our clients, and all of our clients complained about it. We referred them to their members of Parliament.

I think that it was a hasty act. I'm not really sure why it was done, because there was no consultation with my industry or any of the trade orgs.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Garfield Dunlop): Any other questions from the government members? Mr. Balkissoon, you've got a minute there.

Mr. Bas Balkissoon: Just one. Can you repeat: You said you collect 16% of the debt?

Mr. Richard Cooper: It's 16% of the debt that's enrolled in the program.

Mr. Bas Balkissoon: So if I come in with \$30,000, you're going to charge me 16% of the \$30,000—

Interjections: It's 16%.

Mr. Richard Cooper: One-six, 16%.

Mr. Bas Balkissoon: One-six, yes; that's what I mean. But you might negotiate that I only pay back about 50%.

Mr. Richard Cooper: The total cost to get out of debt with our program averages around 65 cents on the dollar.

Mr. Bas Balkissoon: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Balkissoon. We'll now go to the official opposition. Mr. Barrett.

Mr. Toby Barrett: Thanks to the Canadian Association of Debt Assistance. Just briefly: We just received a recommendation that debt settlement company fees could be structured. There was kind of a three-point plan: a reasonable upfront fee of \$750 to \$1,000; a similar amount payable on approval or refunded to the debtor if the settlement is not approved; and then, thirdly, a reasonable percentage of any payments—20% was in here, but a reasonable percentage. Could you comment on that recommendation or that suggestion?

Mr. Richard Cooper: I haven't seen that recommendation, but at a bird's-eye view, it sounds like that might cost more than what people are paying today.

Mr. Toby Barrett: Cost the person who owes the money?

Mr. Richard Cooper: It might cost the consumer more. What we do in my company is we have a money-back guarantee, so if any of our clients would be unsuccessful in us settling the debt, we'd refund the money. We've had that in place for, I don't know, six or seven years now. I've never had to cut a cheque.

Mr. Toby Barrett: I see.

1430

Mr. Richard Cooper: Creditors do yield in the hands of a skilled negotiator all the time.

Mr. Jim McDonell: Under the current legislation or the proposed legislation, do you have the power you need to stop the harassing calls, or is that in—

Mr. Richard Cooper: That's one of the loopholes in the current legislation; regulation 22.2 only facilitates lawyers having the capacity to stop phone calls. That's cost-prohibitive for somebody with credit card debt. We

would like to see that change so that a debt settlement company could actually letter the creditor and the collection agency to stop phone calls, because, if you speak to the ministry, one of the biggest complaints that they get is that people get phone calls while they're enrolled in debt settlement.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. McDonell. Mr. Singh, from the third party.

Mr. Jagmeet Singh: Yes, thank you very much. One of the things I brought up in the House is that debt settlement services as a concept are providing a benefit to the consumer. That's what they're supposed to do. They're supposed to be able to fight on behalf of the consumer.

The complaints that I receive are normally that collection agents are too aggressive and are harassing constituents. But there are some models or there are some players out there that aren't conducting themselves in a way that's appropriate, and I think they're besmirching the reputation of the rest. I think that is kind of what your experience is, if I'm not mistaken.

Mr. Richard Cooper: Yes, that's a fair statement. I think the industry has been polluted by some very bad US players doing business in Canada.

Mr. Jagmeet Singh: One of the things I want to make clear is that it's important—do you think—for disclosure so that people know credit counsellors are funded primarily or at least half by the lenders themselves?

Mr. Richard Cooper: Absolutely. If you ask any credit counselling client that I've ever spoken to that has come into my office, they're not clear on what the source of funding is from credit counselling companies. A lot of them say it's free or that they get corporate donations, but they won't point directly to credit card companies.

Mr. Jagmeet Singh: Two questions I want to ask. The debt-pooling model: Can it be done in an effective way, and how do you do it? Second, what's the advantage of going through a debt settlement service for somewhat of an informal consumer proposal as opposed to going to a trustee in bankruptcy?

Mr. Richard Cooper: I'll answer the second question. It's interesting because not everybody is the right fit for the offerings of a bankruptcy trustee. I think it's a valuable service but, for example, if you're in a bondable position—you drive a Brink's truck, you're a bank teller—and you have a gun cabinet in your basement, you lose your bondability. So bankruptcy or consumer proposal is really not a good option for people. An informal proposal offers that flexibility.

There are situations where bankruptcy is where we send clients when they contact our office. It's really tailored to the individual's needs.

Mr. Jagmeet Singh: And the debt-pooling question.

Mr. Richard Cooper: I don't follow debt pooling or the definition of debt pooling. I know that it exists in Alberta as a concept. I've heard it thrown around today. But I don't know of any debt poolers in Ontario. The program that—

Mr. Jagmeet Singh: What's your model, then?

Mr. Richard Cooper: It's straight-up debt settlement. People get into the program. They follow a budget that we set for them. They save up money, which raises a lump sum, and then once they've raised a lump sum, then we go to the credit card company and negotiate the settlement. They now have an offer in writing. They make the payment. They now have a receipt. So you have offer and acceptance—you have a binding deal, and they're out of debt. We just repeat that process over the three-year period until all the debt is gone.

Mr. Jagmeet Singh: Do you get the agreement from the creditors up front or do you get it along the way?

Mr. Richard Cooper: We get the agreement to settle once they've got the funds available to settle. There's absolutely no point in me picking up the phone today and saying, "Henry's going to pay half of what is owed in six months' time. Can you not bother him?" It just doesn't work that way. You've got to protect the consumer from, let's say, just creditors, from phone calls. That's why there's a lot of work that is done up front by debt settlement companies, which is why if there is a fee cap imposed it needs to be fair amongst everybody that plays in the industry.

The Chair (Mr. Garfield Dunlop): That pretty well concludes your time. Thank you very much, Mr. Cooper—interesting presentation.

CREDIT COUNSELLING CANADA

The Chair (Mr. Garfield Dunlop): We'll now go to our final deputation of the day, and that is Credit Counselling Canada: Patricia White and Scott Hannah. Welcome to the committee, Patricia and Scott. You have five minutes for your presentation and three minutes by each caucus after. Thank you.

Ms. Patricia White: Thank you, Mr. Chair. Good afternoon, everyone. I should introduce myself. I'm Patricia White. I'm the executive director of Credit Counselling Canada, and with me is Scott Hannah, who is the CEO of one of our member agencies. We appreciate the opportunity to explain the perspectives of Credit Counselling Canada members in Ontario regarding Bill 55.

Credit counselling members provide money management education, advocacy and debt repayment programs for consumers coast-to-coast. The vast majority of the services provided by our member agencies are in financial literacy.

Education is the backbone of assistance provided to consumers. People don't know where to find answers to their financial questions. They are confused by the myriad of options and they are worried about their personal finances. This is where our members provide help to consumers. People need assistance in this vital life skill.

Some of our Ontario members have been serving their communities for over 65 years. Mr. Whitehurst from the Consumers Council of Canada spoke last week about the financial stress that people experience, and that often

poor decisions are made at that moment. People are looking for solutions, the magic wand to make their problems go away; then they get taken in and find out that they've made a poor choice, and they feel more stressed. Consumers need financial services that they can trust.

We need legislation and regulations that protect people. We back you in all aspects of the bill. In particular, we support the cooling-off period, written disclosures in plain language, no payment in advance of providing services, the right to cancel services, registration, and prohibition of deceptive advertising. We feel that these provisions protect consumers.

Listening at last week's hearings, I was struck by the fact that whether we're talking about real estate, water heaters or debt settlement, the overriding issue is financial awareness and education. With more financially astute citizens, we would have fewer problems.

Let me address your questions about the funding of not-for-profit credit counselling services. Yes, our members are supported by donations from financial institutions. The Canadian Bankers Association members, as well as other creditors, provide donations to our member agencies to help them maintain and deliver excellent money management education and credit counselling services throughout Ontario. This support enables our members to provide low- or no-cost services to consumers. While the model for donations is based upon funds repaid, the donations are provided to assist our member agencies to deliver services and education, credit awareness, as well as debt repayment programs. I share with you the vision of the members of the CBA.

Canada's banks recognize that not-for-profit credit counselling services play a key role in providing money management and budgeting skills to their clients and the broader community. The banks are committed to strengthening the capacity of this sector and fostering the service it delivers. It is the work in education and rehabilitation that is most important to financial institutions. Yes, we charge consumers modest fees for service. Even with United Way grants, municipal grants and other support, there's a gap needed to be filled by those benefiting from the services we provide. Our client fee policy specifies that all fees must be transparent and geared to the client. No fees are charged in advance of service being provided, and fees must be waived if the client is unable to pay. All our members provide counselling at no charge. The average monthly fee for debt repayment programs is \$24.93. Clearly, our members are not abusing client fees. The goal is helping people in their communities.

People are embarrassed by being in debt, and they are looking for solutions that aren't always readily apparent. Some businesses offer quicker fixes, and consumers will pay just to have the problem resolved. In credit counselling, we state that there are no easy fixes. Consumers need to live without credit during the time of a repayment period, and they will have to change their spending behaviours along the way. Paying 100% of the debt owing is achievable, but requires discipline and help from our members to learn new skills.

Yes, there are bad apples in the debt settlement industry, as there are in other sectors. The difficulty for consumers is telling the difference and having a choice. This legislation provides consumers with much-needed protection against unethical practices.

Credit Counselling Canada looks forward to a consultation process for the regulations. We're prepared to answer questions you have. Thank you for your time.

The Chair (Mr. Garfield Dunlop): Thank you very much, Patricia. We'd like to—

Interruption.

The Chair (Mr. Garfield Dunlop): My phone went off here. Sorry; I'm supposed to keep that shut off. I don't know how it got on.

Ms. Patricia White: At least it wasn't me.

Interjections.

The Chair (Mr. Garfield Dunlop): No, I think it's his fault.

We'll now go to the official opposition. You have three minutes for questions and answers. Mr. McDonell.

Mr. Jim McDonell: Sure. Thank you for coming out today. You talked about where you receive your income, and I know the question has come up. What percentage would come from the creditors? How much would you rely on them to keep you solvent or keep you in business?

1440

Mr. Scott Hannah: I would say, on average, they provide about 50% of the funding. But just to give you some history on that, in Ontario, going back about three decades, most of our member agencies received funding from the Ontario government, and then that funding was stopped. With the financial assistance of the credit-granting community, they enabled the member agencies to continue providing services throughout Ontario. That's where it started.

Mr. Jim McDonell: I know we've talked a lot about how typically it's credit card debt that gets everybody on these. How do you typically handle that? Do they continue paying the higher rate of interest? When they get to you and they're done—they have no money—trying to cover 18% or 20% interest rates is a killer.

Mr. Scott Hannah: Well, the first thing that we'd help a client with is to have a look at their overall situation. So our members provide free counselling to look at all options and the impact of the various options. They can range from looking at conventional sources to obtain a consolidation loan at a low rate of interest to seeking help from the bank of mom and dad to perhaps establishing a debt management program through our member agencies whereby creditors will waive ongoing interest charges so consumers can get out of debt.

In many cases, they're beyond our scope of help because they left it too late, and we're going to encourage them to speak with the trustee in bankruptcy to explore either a consumer proposal where they'll be paying back a portion of the debt or to make an assignment of bankruptcy, again outlining the impact of all those options before they make a decision. At all times, we believe in

encouraging our clients to sleep on it, because it has implications down the road for them, not just for today.

Mr. Jim McDonell: Do you have any recommendations as far as proposed amendments that need to be done to the legislation?

Ms. Patricia White: I think, overall, we're quite happy with the legislation. We support Jordan Rumanek's discussion about moving ahead with the legislation and the regulations because there are consumers who are impacted and we need to move ahead quickly. Ontario is following other provinces that have successfully achieved regulation and legislation, like Alberta, Manitoba and PEI, for example. I think there are other provinces that are following suit, the same as Ontario.

Mr. Scott Hannah: Just to speak on the issue regarding the number of consumers who experienced difficulty in the province of Manitoba, with the introduction of an amendment to the regulations we saw a 50% drop in the number of complaints due to debt settlement practices in Manitoba, overnight. So while I commend Mr. Cooper's organization in terms of how they operate, in terms of not charging fees in advance, that's the exception; that's not the rule.

Our concern is the fact that people are entering into contracts and, as Mr. Cooper said, they don't bother making contact with the creditors until they have funds. What happens in that year or two years before they have the funds? I'll tell you what happens, because we have consumers calling us, saying, "My bank has just garnished my paycheck. They've put a lien on my home. I'm being foreclosed upon." What happens in that time period? There's no legal protection for consumers. So when consumers come to us who aren't able to repay their debts in full or partially, we refer them off to a trustee in bankruptcy, where there is legal protection for that consumer. They're not stuck in no man's land.

The Chair (Mr. Garfield Dunlop): Thank you very much. To the members of the official opposition. Welcome, Ms. MacLeod. I want to pass something on to you. I know you had a very special birthday yesterday, but I also read in the news today where R. A. Dickey is exactly the same age as you are, because his birthday is today—from the Toronto Blue Jays, and you're dressed so nicely in blue today.

Ms. Lisa MacLeod: Well, thank you.

Interjections.

The Chair (Mr. Garfield Dunlop): Now to the third party. Mr. Singh.

Mr. Jagmeet Singh: Thank you very much.

My question to you is: Do creditors or members of lending institutions sit on the boards of credit counselling?

Ms. Patricia White: Yes, sometimes, but we have a restriction. We have a bylaw that says that only a certain percentage can be represented by any particular group so that there's no conflict of interest. Whether that would be credit granters or consumers or any other group, we have that restriction so there is no conflict.

Mr. Scott Hannah: In addition to that piece, though, this month, as a matter of fact, that's been removed

entirely. The financial institutions recognize that there's the perception of perhaps over-involvement, so they will not be sitting on the various boards of credit counselling entities going forward.

Mr. Jagmeet Singh: Going forward. Right now they are, but going forward they won't be. Okay.

Normally, if someone uses credit counselling services, they end up paying back the entire debt. It's not like you settle for a portion of the debt. Is that right?

Mr. Scott Hannah: In most cases; however, at times our organization will help consumers to settle debt. It's an upfront settlement on the basis of, if they have some funds to settle their debts, we'll put that forward to their creditors to see whether they accept it or not, and if they don't, the funds are returned to the consumer.

Mr. Jagmeet Singh: Okay. If one of your strategies is to counsel a consumer to pay back the debt and it takes two years or three years or four years, and if they pay back the entire debt, they're paying back the debt plus interest as it's accruing. So in a way they're paying back more than they actually owe.

Mr. Scott Hannah: That's not true. In almost every case, creditors provide full interest relief. There's the odd creditor who may say, "We're going to provide you with reduced interest relief," but in the majority of cases, it's complete interest relief. So if a consumer comes to us owing \$30,000 on their credit cards, they will repay \$30,000 on the credit cards plus, as Pat White has outlined here, a monthly fee that averages just below \$25.

Mr. Jagmeet Singh: In terms of the funding being at least 50% funded by lending institutions, you wouldn't be opposed to having that be mandated as being disclosed in a more transparent or more upfront manner.

Mr. Scott Hannah: It is.

Ms. Patricia White: It is disclosed.

Mr. Scott Hannah: It's fully disclosed.

Mr. Jagmeet Singh: Okay.

Mr. Scott Hannah: We're quite proud of the fact that if we didn't have that funding, we couldn't provide our educational resources and conduct the extensive counselling at no cost to consumers. So it's not hidden.

Mr. Jagmeet Singh: Would you consider that a bias in your ability to provide services? If you're being funded by the group that is owed the money, as a consumer, one would perceive that as a bias that you may have an interest in making sure the people who fund the organization that you represent are being paid?

Mr. Scott Hannah: Well, let me give you some statistics. Across Ontario, our members may help about 17% of their clients to resolve their debts with the establishment of a debt repayment program. On average, they refer over 25% to trustees in bankruptcy—

The Chair (Mr. Garfield Dunlop): Thank you very much Mr. Hannah, and thank you to the third party.

We'll now go to the government members. You have three minutes. Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you, Mr. Chair, and thank you for being here.

Very short and quickly: What's the real difference between credit counselling and a debt settlement service? Where are the advantages and disadvantages?

Ms. Patricia White: I hesitate to speak specifically about debt settlement, because I'm not in that business, but from the perspective of credit counselling, the significant difference is in education. People come to credit counselling and learn many things about using credit and managing their money; that makes the difference. That's why financial institutions support credit counselling.

Other pieces that we have are the accreditation of our members and the certification of counsellors; those are also very important. I've put those in the additional material for you. I don't know what the situation is in debt settlement, but those are achieving standards, and maintaining a high level of service is a piece that's very important for credit counselling.

Mr. Bas Balkissoon: The previous deputant said that most debt can be settled by a repayment of roughly 65% of the debt. When someone comes to you with debt, is that your target, or do you look at full repayment, as my colleague just asked in the question before?

Mr. Scott Hannah: We look at the client's overall circumstances. Our goal is not for the client to repay 100% or 65% of the debt; our goal is to look at the person's circumstances, to look at what's reasonable. When we look at a person, we say, "Let's help the person to resolve their financial difficulty in a reasonable period of time while maintaining a reasonable standard of living in dignity." Based upon those standards, you look at different options. It may be that bankruptcy is the best solution to accomplish that; at times it may be toughing it out, being a better budgeter and repaying the debt with interest. A person's circumstances and future prospects will determine the course of action. There's no goal in terms of: What debt can we settle?

When you take on an obligation of a credit card, your goal isn't to repay 50% of it; your goal is to maintain that. But when circumstances occur, you have to look at the whole picture and the long-term ramification of that, not just, "Here's a target we're going to shoot for."

Mr. Bas Balkissoon: So if somebody walks through your door, they wouldn't be given the option of a debt settlement agency that may be able to—and I have to take the other person's word for what it was—that they would be able to settle for less. You would not be able to provide them with that option and you would not even counsel them for that option. Am I correct?

1450

Mr. Scott Hannah: No. Our agency provides that service in an upfront service. We would not advocate saving up money in a separate account and exposing yourself to potential legal action on behalf of a creditor as well as damage to your credit history report. If a person was not in a position to repay their obligations, we would encourage them to speak with a licensed trustee in bankruptcy, where they have legal protection from the creditors, while reorganizing their debts given their ability.

Mr. Bas Balkissoon: Okay.

The Chair (Mr. Garfield Dunlop): Thank you very much. That concludes our time for the government members, and that also concludes your time today. Thank you very much for your presentation.

Mr. Scott Hannah: Thank you.

The Chair (Mr. Garfield Dunlop): That concludes our deputations. We have a couple of quick things here. Mr. Barrett, you have something from legislative research that you've passed around?

Mr. Toby Barrett: Yes. Thank you, Chair. Just a point of information for all committee members: We had so many deputants last week that there wasn't time for me to formally request a bit of research which may be useful for all members when you get into the clause-by-clause or writing amendments.

Last week, we had several presentations on water heaters as well, and there was a fair bit of mention not only of the Consumer Protection Act but also the Energy Consumer Protection Act, and suggestions that there were some good things in there. Perhaps we could use some of that, so I've requested research to do a comparison between the two. It just came to me directly. I thought, well, let's get it around to everybody. Thank you.

The Chair (Mr. Garfield Dunlop): Okay, so this is information for all the committee members?

Mr. Toby Barrett: Sure, if there's something useful there. Thanks to legislative research, the people who put that together.

The Chair (Mr. Garfield Dunlop): Okay, thank you very much. As it stands right now—yes?

Mr. Bas Balkissoon: Chair, in that same line, since we listened to the deputants and they were all mixed—some were water heaters, some were credit counselling—would it be appropriate that we get a summary of what we've heard on the two different issues?

The Chair (Mr. Garfield Dunlop): I'll ask the Clerk to clarify that.

The Clerk of the Committee (Mr. Trevor Day): The motion that the committee is following, their own motion, had that a summary of presentations will be prepared by Monday on all the presentations that we've heard.

Mr. Bas Balkissoon: Okay. Super.

The Chair (Mr. Garfield Dunlop): That takes us to next—sorry, Mr. Singh?

Mr. Jagmeet Singh: Thank you so much. I'm just trying to clarify the deadlines for the amendments.

The Chair (Mr. Garfield Dunlop): I was just going to do that.

Mr. Jagmeet Singh: Perfect, because if the deadlines for amendments are such that maybe receiving this by Monday—would it still give us enough time to review that?

The Chair (Mr. Garfield Dunlop): Yes. How it stands right now, the clause-by-clause is next Wednesday, November 12—

Interjection.

The Chair (Mr. Garfield Dunlop): November 6. At 12 noon, we start. Okay.

Let me start that again: clause-by-clause next Wednesday, November 6, at a starting time of 12 noon. We'll have lunch for all the committee members.

The amendment deadline is 12 noon on Tuesday, November 5, 2013, but we call this a soft deadline, because the amendments must be filed in hard copy with the Clerk of the committee. The legislative counsel for this is Michael Wood, who will be doing the drafting of the amendments.

Mr. Jim McDonell: So the amendments—by noon?

The Chair (Mr. Garfield Dunlop): We should have them by noon on Tuesday, November 5, yes.

Mr. Jagmeet Singh: When are we getting the summary?

Interjection: Monday.

Mr. Jagmeet Singh: It's really no minimal point, because I'm going to submit all of my amendments, probably, by tomorrow. I don't think it makes sense to—

The Clerk of the Committee (Mr. Trevor Day): The committee's decision to have a summary done was set previously, when we started dealing with this bill.

Mr. Jagmeet Singh: That's fine. It's just too far away, because I don't think anyone is really going to rely on it. You should have had your amendments in Monday morning, or at least Friday, if you were hoping to get them ready by Tuesday.

The Clerk of the Committee (Mr. Trevor Day): The amendment deadline is a soft deadline. It's set by committee, not set by the House, so we will accept amendments right up until the section is passed in clause-by-clause.

Mr. Jagmeet Singh: Oh, really?

The Clerk of the Committee (Mr. Trevor Day): Yes, it's a soft deadline. It's set by the committee. It's administrative, just to—

Mr. Jagmeet Singh: This isn't part of the programming motion then?

The Chair (Mr. Garfield Dunlop): Yes, it's part of the motion. Anything else?

Mr. Jagmeet Singh: This isn't time-allocated?

The Clerk of the Committee (Mr. Trevor Day): The deadline for amendments was not set in that motion. Therefore, this is a soft motion set by the committee. We are subject to that programming motion; however, this particular area was not set in that motion.

Mr. Jagmeet Singh: Wow. That's very good. What about the clause-by-clause? Is the clause-by-clause time-allocated? Does it have to finish by 6 p.m. that day?

The Chair (Mr. Garfield Dunlop): We have, actually, two days set aside. We've put the full three hours on the 6th, and then we've also got two weeks after that, following constituency week. We've got that full afternoon, too, if we have that many amendments.

Mr. Jagmeet Singh: Good. Wonderful.

The Chair (Mr. Garfield Dunlop): Is that okay with the committee? Any other questions? With that, we're adjourned. We'll see you next Wednesday at 12 o'clock.

The committee adjourned at 1455.

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Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Wednesday 6 November 2013

Journal des débats (Hansard)

Mercredi 6 novembre 2013

Standing Committee on the Legislative Assembly

Stronger Protection for
Ontario Consumers Act, 2013

Comité permanent de l'Assemblée législative

Loi de 2013 renforçant
la protection du consommateur
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Wednesday 6 November 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Mercredi 6 novembre 2013

*The committee met at 1204 in committee room 1.*STRONGER PROTECTION
FOR ONTARIO CONSUMERS ACT, 2013
LOI DE 2013 RENFORÇANT
LA PROTECTION
DU CONSOMMATEUR ONTARIEN

Consideration of the following bill:

Bill 55, An Act to amend the Collection Agencies Act, the Consumer Protection Act, 2002 and the Real Estate and Business Brokers Act, 2002 and to make consequential amendments to other Acts / Projet de loi 55, Loi modifiant la Loi sur les agences de recouvrement, la Loi de 2002 sur la protection du consommateur et la Loi de 2002 sur le courtage commercial et immobilier et apportant des modifications corrélatives à d'autres lois.

The Chair (Mr. Garfield Dunlop): Good afternoon, everyone. We'll call the meeting to order. We're here today to do the clause-by-clause consideration of Bill 55, An Act to amend the Collection Agencies Act, the Consumer Protection Act, 2002 and the Real Estate and Business Brokers Act, 2002 and to make consequential amendments to other Acts.

Before we get into the actual clause-by-clause, I normally ask of each of the caucuses if they'd like to make any kind of statement or something before we start into the clause-by-clause. I'll start with you, Mr. McDonell. Do you have any comments you'd like to make before clause-by-clause?

Mr. Jim McDonell: There's an opportunity here to make some changes that would benefit the consumer, and we think that that's important. That's what we're looking for at the end of the day, that we have a stronger bill.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much. Mr. Singh, would you have any comments on behalf of the third party?

Mr. Jagmeet Singh: Certainly, yes. When it comes to consumer protection, there's a balance that we need to strike between protecting the consumer and encouraging a climate where the consumer gets the best product. So that's going to be our difficulty: making sure we strike the right balance between consumer protection and creating a climate where we can ensure that the best product is available to the consumer.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Singh.

Would anybody from the government side like to make a comment or just an opening statement on the clause-by-clause?

Mr. Vic Dhillon: We're fine, Chair.

The Chair (Mr. Garfield Dunlop): No problems? Okay. Thank you very much.

With that, to the members of the committee, I think we'll stand down sections 1, 2 and 3, and we'll go right to the schedules because all of the amendments are on the actual schedules. We have a number of them here. Do you agree that we can stand down the three sections and vote on them at the very end? Okay? Okay. That's agreed.

I'll start with 0.1. The motion is by the—

Interjection.

The Chair (Mr. Garfield Dunlop): Okay, so as we go through the schedules, some of them don't have any amendments. Because there are none on schedule 1, section 1, could I ask people to—shall schedule 1, section 1, carry? There are no amendments to that. Carried? Okay, that's carried.

Schedule 1, section 2: There are two amendments on that. The first amendment is by the PCs. Mr. McDonell?

Mr. Jim McDonell: Do you want me to read it in? Is that the—

The Chair (Mr. Garfield Dunlop): Yes, you have to read the whole motion in.

Mr. Jim McDonell: Okay. I move that the definition of "debt settlement services" in subsection 1(1) of the Collection Agencies Act, as set out in subsection 2(2) of schedule 1 to the bill, be struck out and the following substituted:

"'debt settlement services' means any of the following services if they are provided in consideration of a fee, commission or other remuneration that is payable by the debtor:

"1. Offering or undertaking to act for a debtor in arrangements or negotiations with the debtor's creditors or receiving money from a debtor for distribution to the debtor's creditors.

"2. Providing a debtor with advice relating to managing or repaying the debtor's debts or negotiating with the debtor's creditors; ('services de règlement de dette')".

The Chair (Mr. Garfield Dunlop): So everyone has heard that motion. Would you like to make comments on it, or would you like to explain the reason?

Mr. Jim McDonell: Well, we want to bring into the definition all counselling services, even if they don't col-

lect a fee. Anybody who collects, we think, should be included in this legislation.

The Chair (Mr. Garfield Dunlop): Okay. Any comments? Mr. Singh.

Mr. Jagmeet Singh: Yes, it's actually a motion that I support. I think it's very similar to our motion, so what I'd like to do, just to avoid redundancy, is if I could ask counsel, Mr. Wood, to just briefly—if you could peruse both motion 0.1 and 0.1.1, and if you could highlight any significant differences, if there are any. If not—I think they're almost the same—does it make sense to have two motions that are very similar? We could facilitate an easier process if we could figure out if they're similar.

Mr. Michael Wood: I'm Michael Wood, legislative counsel. I agree with Mr. Singh that the substantive effect of both the PC motion and the NDP motion is the same. The NDP motion, as members can see, inserts the words "counselling a debtor with respect to debts that the debtor owes to creditors", whereas the PC motion introduces a new paragraph 2. It seems that, for all practical purposes, they achieve the same thing.

Mr. Jagmeet Singh: Thank you very much, Mr. Wood, for that comment. Did that complete your remarks?

Mr. Michael Wood: Yes.

Mr. Jagmeet Singh: Thank you very much, sir. Just for the benefit of Mr. McDonell, I guess the only significant difference that I see is that I expressly mentioned the word "counselling," which would capture in an obvious way credit counselling, though I agree that providing a debtor with "advice" achieves the same result. It's just, in terms of the language, having the word "counselling" ensures that credit counsellors are also captured in this.

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Otherwise, really, it's almost identical. They're written in two different ways, but I think that having the word "counselling" is useful because it captures a credit counsellor in a very easy-to-understand way. But I want to hear if you agree with that or not.

Mr. Jim McDonell: Sure—

Mr. Jagmeet Singh: Through the Chair.

The Chair (Mr. Garfield Dunlop): Mr. McDonell.

Mr. Jim McDonell: The intent is included, and if it's cleaner, we're fine with that.

The Chair (Mr. Garfield Dunlop): Okay. Any questions—

Interruption.

The Chair (Mr. Garfield Dunlop): So our consensus—we'll join the two together. It would be the same motion.

The Clerk of the Committee (Mr. Trevor Day): It's been withdrawn.

The Chair (Mr. Garfield Dunlop): One is withdrawing?

The Clerk of the Committee (Mr. Trevor Day): No, they're both going.

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): Okay. Now, I want to ask questions to the government members on this.

Interjection.

The Chair (Mr. Garfield Dunlop): What has been withdrawn? Mr. McDonell's has been withdrawn?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): Okay, so we'll—

Mr. Jim McDonell: We'll go with the NDP one.

The Chair (Mr. Garfield Dunlop): We'll go with the NDP motion, then. Any questions on the NDP—

The Clerk of the Committee (Mr. Trevor Day): They have to read it into the record—

The Chair (Mr. Garfield Dunlop): Oh, I'm sorry. All right. Please read it into the record.

Mr. Jagmeet Singh: Thank you very much. This is a motion to the committee, motion 0.1.1.

I move that the definition of "debt settlement services" in subsection 1(1) of the Collection Agencies Act, as set out in subsection 2(2) of schedule 1 to the bill, be struck out and the following substituted:

"'debt settlement services' means offering or undertaking to act for a debtor in arrangements or negotiations with the debtor's creditors, counselling a debtor with respect to debts that the debtor owes to creditors or receiving money from a debtor for distribution to the debtor's creditors, where the services are provided in consideration of a fee, commission or other remuneration that is payable by the debtor;"

That's the motion, and just a quick explanation: What this does is it clearly defines what debt settlement services do. It provides an exhaustive definition so that it will cover all debt settlement services so that we know who will actually be covered by this bill. It provides a definition for it. What it also does is it includes credit counsellors so that they are also regulated, as opposed to not being regulated. Now, they'll be captured by this legislation as well. It just clarifies the definition and then broadens it to include credit counsellors as well.

It doesn't take away from any of the protections. In fact, I would submit that it strengthens the protection because it actually clearly defines who is covered by the bill; and it also includes the credit counsellors, who we heard from before. That provides more protection to consumers.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Singh.

Any questions from the government members? Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Chair. We'll be voting against both the PC and the NDP motions because this would potentially affect an unknown number of people. The language in this motion is too broad. So we're voting against it.

The Chair (Mr. Garfield Dunlop): Okay. So your caucus will not be supporting this at this point?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Singh.

Mr. Jagmeet Singh: Sorry, my apologies. I think Mr. McDonell had his hand up first.

The Chair (Mr. Garfield Dunlop): Oh, Mr. McDonell?

Mr. Jim McDonell: I just think if you're truly looking at trying to protect the consumer, why would you leave a significant group out of the legislation? The legislation seems to be broad in dealing with some of the issues. It just makes it confusing and it rallies people behind a title change just to get around to the legislation. Thank you.

The Chair (Mr. Garfield Dunlop): Okay. Any other questions? I'm going to call the vote—Mr. Singh.

Mr. Jagmeet Singh: My question is just to Mr. Wood, to objectively indicate the impact of this definition. How would it impact the bill in your estimation?

Mr. Michael Wood: Well, I can give you my interpretation of it. Ultimately, if the motion passed, it would be up to the ministry administering the Collection Agencies Act to interpret the act. Any time you make a change to a definition, it can have a huge repercussion in the rest of the act, as amended, because this term, "debt settlement services," is used throughout the amendments that we make. There is a whole new block of sections inserted into the Collection Agencies Act to regulate collection agencies, and collectors who act on their behalf, who enter into debt settlement services agreements with consumers.

Mr. Jagmeet Singh: Thank you very much, sir. My apologies, Mr. Chair, I have one other question. I wanted to ask if there is a ministry lawyer we could ask the same question to—the impact? Is there a ministry lawyer available?

The Chair (Mr. Garfield Dunlop): Yes, please? Could you come forward, sir, and give an explanation on this? Please take a chair and state your name.

Mr. Neil Hartung: Neil Hartung. I'm with the Ministry of Consumer Services, legal services branch.

Mr. Jagmeet Singh: Mr. Chair, and perhaps to Mr. Clerk, could we have a copy of this in front of Mr.—sorry, I apologize.

Mr. Neil Hartung: I have it back here. I'll pick it up. It's Hartung.

Mr. Jagmeet Singh: Mr.—

Mr. Neil Hartung: Mr. Hartung.

Mr. Jagmeet Singh: Hartung.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Hartung. Please proceed.

Mr. Jagmeet Singh: My question, Mr. Hartung, through the Chair, is on the definition with respect to clarifying what a debt settlement service is. My submission is that it would increase the protection because it would define clearly what a debt settlement service is. My submission is that it adds credit counsellors to the definition, so that it provides regulation or protection with respect to those agencies as well.

Mr. Neil Hartung: Credit counselling, in the true sense, is already captured. They're already regulated as collection agencies, under the act. The provision of "counselling a debtor," expands, per what Michael Wood said, the scope of the act. Because it is a definition, it's

difficult to say what the impact will be of the inclusion of those words.

Mr. Jagmeet Singh: Just to clarify, because of the addition of "counselling": It could be someone who provides informal counselling, that's not through a credit counsellor. But if they provide any counselling with respect to debts, they would also be covered by this new definition?

Mr. Neil Hartung: Potentially, yes.

Mr. Jagmeet Singh: Do you agree with me that there would not be any detriment to the consumer in any way by including folks who offer counselling services in an informal way in the definition?

Mr. Neil Hartung: Well, I don't think there would be a detriment to the consumer. There may be a detriment to the business that's providing counselling and is not taking money in advance. Certainly, that isn't the mischief that we were aiming at when we made these amendments.

Mr. Jagmeet Singh: Thank you very much.

The Chair (Mr. Garfield Dunlop): Mr. McDonell?

Mr. Jim McDonell: I'm just wondering, if you get a service provider that's taking money from anybody, whether it be the debtor or the creditor, should this not apply? If it's a business, it's surviving on an income. The bill is fairly encompassing. Why would we leave out that group? They are providing a service. I would have more concern about somebody who's getting money back from the creditors, because you really have to wonder whose best interests are at heart.

Mr. Neil Hartung: The way that the act is arrayed, if you're engaged in collection activities, which is very broadly defined, you need to be registered and licensed as a collection agency, and you need to use registered collectors.

The idea of providing counselling, I think, goes beyond what the four square corners of the act contemplate. You can certainly make this amendment, but as to what those results will be over the longer term, we won't know. That's not to say that consumers aren't protected when they're getting counselling services. That would be a consumer transaction under the Consumer Protection Act, and there would be certain requirements that would apply to that agreement in any event.

The Chair (Mr. Garfield Dunlop): Any further questions? I'm going to call the question, then.

Those in favour of the amendment?

Mr. Jagmeet Singh: Can we have a recorded vote?

The Chair (Mr. Garfield Dunlop): A recorded vote.

Ayes

Forster, McDonell, Milligan, Singh.

Nays

Cansfield, Crack, Dhillon, Mangat.

The Chair (Mr. Garfield Dunlop): In this case, because it's a change from the format we received it in, I'll

be supporting the government motion as we received it. So I'm voting against the change. It's lost.

Shall schedule 1, section 2, carry? That's carried.

We'll now go to schedule 1, section 3. There are two amendments on this one as well. The first one is the NDP motion. Mr. Singh?

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Mr. Jagmeet Singh: I move that subsection 2(0.1) of the Collection Agencies Act, as set out in section 3 of schedule 1 to the bill, be struck out and the following substituted:

"Application of act

"(0.1) This act applies to a collection agency or collector that deals with a debtor if the debtor is a resident of Ontario or located in Ontario when the dealing takes place, regardless of where the applicable one of the collection agency or the collector is located at that time."

This is to essentially make sure that the protection applies to Ontario residents, whether or not the agency is based out of another province, that the debtor—when the dealing took place in the province of Ontario, they should be protected by this act.

The Chair (Mr. Garfield Dunlop): Any further comments, Mr. Singh?

Any questions on this from the government members? Ms. Cansfield?

Mrs. Donna H. Cansfield: We'll be voting against this motion. Our position is that we do not want Ontario to become a haven for these activities; that, in fact, everyone should be protected.

The Chair (Mr. Garfield Dunlop): Okay. Anybody from the official opposition have any comments on it?

Mr. Jim McDonell: Yes. I think the idea is we want to make sure that the residents of Ontario are protected, regardless of where the agency's from. I don't know how that would make Ontario a haven. We're looking at protecting the residents of Ontario, as we have a duty to do that.

The Chair (Mr. Garfield Dunlop): Mr. Singh, you have a further—

Mr. Jagmeet Singh: It seems to be a very friendly day between the PCs and the NDP.

I was going to echo the comment that by simply stating who is protected and who gains the protection, it's not making anything a haven. It just clearly sets out that if you live in Ontario and the dealings took place in Ontario, then you should be protected by this act. Whether or not the collection agency or the collectors started off in Ontario and moved to another province or to another jurisdiction or to another country, because the dealings happened in Ontario and the person lives in Ontario, they should be entitled to protection.

It's really quite similar to what was included in the wireless agreement act, and the wireless agreement act went even further than that. It said that either party—it said, to put it into this context, that even if the collector was in Ontario but the debtor was in another province, they would still be covered. This is actually more narrow than what the wireless agreement is, but, I think, appropri-

ately so because it covers the resident in Ontario and where the dealing took place. So I think it directly addresses the issue.

The Chair (Mr. Garfield Dunlop): Further questions? Further comments? All those in favour of the NDP motion?

Mr. Jagmeet Singh: A recorded vote, please.

The Chair (Mr. Garfield Dunlop): Recorded vote.

Ayes

Forster, McDonell, Milligan, Singh.

Nays

Cansfield, Crack, Dhillon, Dunlop, Mangat.

The Chair (Mr. Garfield Dunlop): I'll be supporting the government members because it's a change from the format we found the bill in. The motion does not carry.

We now go to the PC motion, 0.2, and that will be Mr. McDonell.

Mr. Jim McDonell: I move that section 3 of schedule 1 to the bill be amended by adding the following subsection:

"(2) Clause 2(a) of the act is amended by striking out 'a barrister or solicitor' and substituting 'a barrister, solicitor or paralegal member of the Law Society of Upper Canada'."

The Chair (Mr. Garfield Dunlop): Would you like to give any more explanation on that?

Mr. Jim McDonell: We feel that the paralegals are a valuable resource in this province. It has legislative protection. It's included as part of the law society, and we think that it should be in there. It gives them the power to act on behalf of the client. It gives them an avenue to—likely a cheaper resource than having to go with a full lawyer. We just think that it's a small change. It's maybe not in a clause that's looking after—I think you're looking for benefit for the consumer, and I think that all parties should be interested in that.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Singh?

Mr. Jagmeet Singh: We'll be supporting this motion. The paralegals presented in this committee and they advised that it would allow them to better serve their clients if they were able to represent their clients in these sorts of cases. They can currently represent their clients, but the only prohibition is that, one, paralegals are equally—they're licensed members of the Law Society of Upper Canada, so they have rights, obligations and responsibilities to the public. They have insurance. There's a remedy if they don't provide proper service to a consumer. A consumer can file a complaint with the law society, and it can follow up. So all the levels of protection are still there for the consumer. It doesn't expand the scope of what a paralegal can do because that's something that we need to research and reflect upon before we do that. All it does is, in cases regarding collection agencies, it allows a paralegal to act. It can also mean the difference in a para-

legal being able to collect their own fees. From the paralegals' deposition, I think it makes sense to include them.

The Chair (Mr. Garfield Dunlop): Okay. Now to the government members: Mr. Dhillon, you have a comment?

Mr. Vic Dhillon: We won't be supporting this because the law society hasn't studied this issue, so we're in opposition—and as well, the AG's office. So we won't be supporting this.

The Chair (Mr. Garfield Dunlop): Okay. Any other questions? Mr. McDonnell?

Mr. Jim McDonnell: Yes, I wonder if we could ask our legal counsel if, other than adding this licensed group in, there's any other ramifications? We have our legal counsel, and we shouldn't have to go back. If the law society wanted to make a deputation to this bill, they could have, but they didn't.

The Chair (Mr. Garfield Dunlop): Okay, Mr. Hartung, would you like to make a comment on that?

Mr. Neil Hartung: I can tell you that we've been in discussions with the law society. I think the issue is that on the ground, collection agencies do use paralegals. I think you heard during the deputations that part of the debt settlement services that are provided are, in fact, paralegal services. So an outright exemption may in fact create a rather large back door for what the provisions are trying to do, which is to control debt settlement services agreements. That's why it requires more study, and that is the basis upon which we provided advice to the ministry that it ought not to proceed forward at this time.

The Chair (Mr. Garfield Dunlop): Any other questions from anyone? Okay, can I call the question? All those in favour of the PC motion? Those opposed? That motion is not carried—

Interruption.

The Chair (Mr. Garfield Dunlop): Again, it's a change from the format we received the bill in, and I won't be supporting it.

Shall schedule 1, section 3, carry? Carried? Okay, it's carried.

We'll now go to schedule 1, section 4. The NDP have a motion. Mr. Singh.

Mr. Jagmeet Singh: Thank you very much. The motion is 0.2.1.

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Jagmeet Singh: I move that subsection 16.3(2) of the Collection Agencies Act, as set out in section 4 of schedule 1 to the bill, be struck out and the following substituted:

"Required representations

"(2) A collection agency or collector shall communicate or cause to be communicated, in the circumstances that are prescribed,

"(a) all terms of a debt settlement services agreement that are key to understanding the agreement;

"(b) a clear and detailed explanation of the effect that a debt settlement services agreement will have on the debtor's credit rating; and

"(c) all representations relating to a debt settlement services agreement that are prescribed as required representations."

Just a brief explanation: The motion is simply to provide more clarity to the consumer when they enter into a debt settlement services agreement. I think the way it is currently crafted, these same requirements are all ministerial powers. Instead of having them as ministerial powers, it clearly states those requirements in law. The requirements for representations are stated in law as opposed to at ministerial discretion. I think that's really the only difference. It's straightforward in terms of providing a clear and detailed understanding of what the agreement is. That's it.

The Chair (Mr. Garfield Dunlop): Any comments from the government members? Mr. Dhillon?

Mr. Vic Dhillon: Yes, Chair, we potentially may support this if we can get a change to the term "key" in section 2(a) of this bill, and replace it with "unnecessary"—

Mrs. Donna H. Cansfield: "Necessary."

Mr. Vic Dhillon: "Necessary"; I'm sorry.

Interruption.

The Chair (Mr. Garfield Dunlop): Go ahead, Mr. Wood.

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Mr. Michael Wood: Michael Wood, legislative counsel. I would just suggest striking out two words. Instead of striking out just "key," strike out "key to" and replace them with "necessary for."

Mr. Vic Dhillon: That's fine.

The Chair (Mr. Garfield Dunlop): Are you making that amendment, then, to this motion of the NDP?

Mr. Vic Dhillon: Yes. If it's—yes.

Mr. Jagmeet Singh: I consider that a friendly amendment. It keeps the spirit of what I want. It achieves that, just changing "key" to "necessary." I'm fine with that.

The Chair (Mr. Garfield Dunlop): Okay.

Mr. Vic Dhillon: Yes, Chair, if I'm not—

The Chair (Mr. Garfield Dunlop): I'll be calling the vote on both of them. Okay?

Mr. Vic Dhillon: So on the original motion we would be voting no, and then—

Mrs. Donna H. Cansfield: No, we'll do the amendment first.

Mr. Vic Dhillon: We'll do the amendment?

The Chair (Mr. Garfield Dunlop): We'll do the amendment first—

Mr. Vic Dhillon: I'm not too familiar with it.

The Chair (Mr. Garfield Dunlop): —and then we'll do it as amended. Okay?

Mr. Vic Dhillon: That's fine.

The Chair (Mr. Garfield Dunlop): Mr. Dhillon has moved that we strike "key to" and replace it with "necessary for." Those in favour of that? That's carried.

Now on the original motion, as amended, 0.2, as Mr. Singh has moved—all those in favour of that one?

Mr. Vic Dhillon: As amended?

The Chair (Mr. Garfield Dunlop): As amended. Thank you very much. That's carried.

Now we'll go to 0.3, which is a PC motion. Mr. McDonell.

Mr. Jim McDonell: I move that section 16.3 of the Collection Agencies Act, as set out in section 4 of schedule 1 to the bill, be amended by adding the following subsection:

"Required disclosure

"(3) If a collection agency or a collector, acting on behalf of the collection agency, has received funding or payments in the previous year from creditors or any person or body that extends credit, the agency and the collector shall ensure that information about the funding and payments is communicated to the debtor before the agency enters into a debt settlement services agreement with a debtor."

What we're trying to do here is make it mandatory that they disclose funds. I know that it's always possible that the regulations could include that, but we think this is an important disclosure. People should know who's working for them and where they're getting all their funds.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Singh?

Mr. Jagmeet Singh: Yes, thank you very much. I support this amendment. This issue came up. I understand that the credit counsellors who came forward indicated that they do disclose their funding sources—they testified or they provided deputations to that effect—but it's still a question that it's not as apparent or readily available to the average consumer, and so the idea of requiring disclosure of the funding or the payments is important. It allows consumers to have a more fulsome understanding of who they're dealing with and what their source of revenue is. If a consumer has questions about the bias of a particular organization, they can satisfy themselves by understanding what the source of funding is for that particular organization. So we'll be supporting this motion.

The Chair (Mr. Garfield Dunlop): Okay, you're supporting it. Any comments from the government members?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Garfield Dunlop): Mr. Dhillon?

Mr. Vic Dhillon: We'll be putting forth a new motion addressing this, which we feel is—

The Chair (Mr. Garfield Dunlop): Further down?

Mr. Vic Dhillon: Yes, the next motion.

The Chair (Mr. Garfield Dunlop): Okay.

Mr. Vic Dhillon: But we'll be voting this one down.

The Chair (Mr. Garfield Dunlop): You'll be voting this one down?

Okay. Any other questions? Mr. Singh? Sorry, Mr. McDonell has a question first, and then Mr. Singh.

Mr. Jim McDonell: Before we vote this down, should we have legal counsel comment on the differences in the two, if it's really seeing that we're supporting one and not the other?

The Chair (Mr. Garfield Dunlop): If Mr. Hartung feels—

Mr. Jim McDonell: He's talking about 0.3, not 0.1.

The Chair (Mr. Garfield Dunlop): Are you comfortable with that question?

Mr. Neil Hartung: I think they amount to the same thing. Substantively, they require the disclosure of sources of funding. It's a matter of the wordiness of 0.3 versus perhaps a little more crispness to the government-proposed motion. But other than that, they achieve the same result, in my view.

The Chair (Mr. Garfield Dunlop): Mr. Wood?

Mr. Michael Wood: May I add something? Yes, I do agree with what Mr. Hartung has said, but I point out one additional matter: In the government motion on subsection 16.5(1), by adding the new clause (c), it does refer to information that is prescribed. "Prescribed" is a defined term in the act, meaning prescribed by the regulations. I could ask Mr. Hartung to confirm this.

I would think, then, that if there are no regulations to prescribe information for the purposes of this clause (c), then there is no obligation to disclose any information.

Mr. Neil Hartung: I would think that's correct. I guess what I see in the language of the motion under consideration is, how does the collection agency meet those words in there. Right? Those words seem to have some doubt around them as to what exactly they mean, and that's oftentimes why one will go down the road of prescription, so you can be very clear as to how organizations can meet their obligations, as opposed to living under the doubt of "all sources of funding."

Mr. Michael Wood: Just so the committee members realize the difference between the two motions, if there is no regulation to prescribe information for the purposes of the new clause (c) of 16.5(1), then there is no obligation under that clause (c).

If the regulations are made, it could be that the two motions achieve the same thing. But in the government motion, you need regulations to be made to achieve that effect.

The Chair (Mr. Garfield Dunlop): Mr. McDonell and then Mr. Singh.

Mr. Jim McDonell: We believe this is a fairly fundamental consumer protection so that they know, if they are entering into an agreement, just where they are getting their funds. We believe it should be up front. It should be in the legislation so there's no doubt where it is, instead of relying on something that may happen or may not happen, and then there is no protection.

The Chair (Mr. Garfield Dunlop): Mr. Singh?

Mr. Jagmeet Singh: I appreciate the distinctions raised by both counsel. I think that, in fairness, if there was a prescription, if what was prescribed was defined or laid out, then I would be very happy to support the government motion. But absent that clarity in terms of it not being prescribed, at this point I agree with Mr. Wood that we would be left with a good section which would have no real implementation until there's actually a regulation.

Absent regulation—if there's a regulation later down in the government amendments, then I think it would make some sense, but otherwise I think we have to stick

with the PC motion, which provides that requirement of disclosure and doesn't require a regulation to be present.

The Chair (Mr. Garfield Dunlop): Mr. Dhillon, do you have more comments?

Mr. Vic Dhillon: Chair, can we get a five-minute recess so we can have a discussion?

The Chair (Mr. Garfield Dunlop): Does the committee agree to recess, and then further debate after?

Interjection: Yes.

The Chair (Mr. Garfield Dunlop): Okay, a five-minute recess.

The committee recessed from 1237 to 1242.

The Chair (Mr. Garfield Dunlop): I call the meeting back to order. Does the committee require more time to discuss this? Where's Mr. Dhillon?

Mr. Singh?

Mr. Jagmeet Singh: I'm just curious, as a result of the discussion, what the government's position is.

The Chair (Mr. Garfield Dunlop): Just give us a second, Mr. Singh.

Mr. Jagmeet Singh: Sure.

The Chair (Mr. Garfield Dunlop): Here he comes. Mr. Dhillon, do you have further comments on this?

Mr. Vic Dhillon: I believe my colleague will be addressing—

The Chair (Mr. Garfield Dunlop): Ms. Cansfield?

Mrs. Donna H. Cansfield: The only comment I'd like to make is that legislation typically is an enabling process. The reason we had (c) is because regulation is a process whereby we do consultation with those affected to make the regulatory changes. It's much easier, in the future, to change a regulation than it is to change legislation. That's why we inserted (c), because, in fact, it gives more ability for the government to make regulatory change than legislative change. We will not be supporting this motion.

The Chair (Mr. Garfield Dunlop): So the government members won't be supporting it.

Mr. McDonell, then Mr. Singh.

Mr. Jim McDonell: I'm just thinking that it's fairly fundamental to know who you're employing and where they get their funding in a case like this, because you want to know, are they working for you or are they actually working for somebody else? I think that's fairly basic and I think it's fairly clear. To rely on it being in legislation—I know there are lots of things that could be in regulations, because they do change, but this is just a basic right, and we think it should be here.

The Chair (Mr. Garfield Dunlop): Ms. Forster?

Ms. Cindy Forster: We heard from at least one agency during the deputations that they got 50% of their funding from banks, for example; right? So we think that we really need to make sure that this disclosure is in the legislation and it isn't just out there somewhere where it may not ever end up in regulation.

The Chair (Mr. Garfield Dunlop): Mr. Singh, did you have any further comments on it?

Mr. Jagmeet Singh: Yes. Perhaps if someone else is ready, though; I just need a minute to collect my thoughts.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Dhillon? No. Do any of the government members have any more comments on it?

Mrs. Donna H. Cansfield: If I may, Chair, again, we wouldn't have (c) in if there wasn't intent to do a regulatory process. That is how legislation works. You enable and then you put in a process of making it work, and that's why (c) was inserted. If we had no intention of doing regulations, we wouldn't have inserted (c) in the first place.

The Chair (Mr. Garfield Dunlop): Further debate? Mr. McDonell.

Mr. Jim McDonell: On the surface, I would have tended to believe that before I got here, but I see many cases where regulations haven't been enacted. I know on the surface it would seem that that should be the case, but there are many, many cases where you don't see that happen. It's something that's fundamental, and I think that people expect to know, when they hire somebody, are they working for them or are they working for somebody else, especially in something like this.

As the member from the NDP had said, there have been cases where 50% of the revenue actually comes from the people, and I think that puts a conflict of interest in. The consumer should be aware. We're only asking that they should be aware of it.

The Chair (Mr. Garfield Dunlop): Mr. Singh?

Mr. Jagmeet Singh: I continue to support the intent of this motion. The one question I have, which is a fair question—perhaps I can put it to both counsel and they could maybe assess it. Based on the wording of motion 0.3, could a collection agency or collector or anyone that falls within the scope of this bill—would they have to disclose receiving a mortgage payment as well, or any other type of loan that they receive, whether it's not actually for the purpose of funding their operation but just maybe securing a mortgage for the property that they're operating in? That might be a bit broader than we want, but I just want to hear the response to that issue from both Mr. Wood and Mr.—sorry, I keep on forgetting your name. My apologies.

Mr. Neil Hartung: Hartung.

Mr. Jagmeet Singh: Mr. Hartung. Thank you.

The Chair (Mr. Garfield Dunlop): Would you please come and answer, if you can?

Mr. Neil Hartung: I spoke up. I guess I have to answer.

Potentially they need to disclose the fact that they have a corporate credit card that they use for part of their operations. The wording is extremely broad. To the extent that you wanted to narrow that wording, the idea is fine and I don't think the ministry objects to that.

The issue is that the wording is so long—they'd have to disclose the fact that they have a lease, because a lease is a form of credit. They'd have to disclose their credit

card, their mortgage. All sorts of things would be swept into this that are not otherwise captured.

As well, that information already exists. These are charities. You can go to the Revenue Canada website; you can look up what their basic information is, what their spend rates are. Certainly you can house this in the legislation. It doesn't have to be; we could certainly address it by reg. But to the extent that you want to, I think you need to look at how to narrow those words. I don't know that you'll be able to do that today. Therefore, you may want to consider adding regulatory authority to narrow down what those words mean.

Mr. Jagmeet Singh: Perhaps Mr. Wood?

Mr. Michael Wood: Yes, I agree with what Mr. Hartung said. Funding isn't defined in the act, so there could be differences of opinion. It could be that a more reasonable position is that the funding should just be relating to the collection agency carrying on its operation. But somebody certainly would be within their rights to read that very broadly and push the disclosure requirement.

The Chair (Mr. Garfield Dunlop): Mr. McDonell?

Mr. Jim McDonell: I think there's always the opportunity for bad players, and I think that there need to be amendments. It can be done through regulation in the future.

I caution the committee to the fact that a lot of this information is probably readily available, but I think the whole talk and the preamble about this bill, that generally people who utilize these services can be in dire straits—are they going to be researching the Internet? Are they going to be researching the very public records that in most cases you'd pay a lawyer to do? I think that has to be considered back here. This is a group of people sometimes that are desperate and take on a wish and hope something happens, and I think we want to protect them. These aren't people who tend to have a lot of time to do research to see maybe what's out there and where some of this funding comes from.

The Chair (Mr. Garfield Dunlop): Mr. Singh?

Mr. Jagmeet Singh: My final suggestion, perhaps, to the committee—definitely to the committee—is that if we could perhaps tighten the language, because the concept is something I think everyone agrees on. Perhaps the wording needs to be tightened somewhat. Would it be possible to defer just this section to the next date, and in the interim come up with tighter language, and then we could address it that way? Is that something that everyone is agreeable to on this point, since it's not contentious? It's really just the language and the concern between putting it in the actual legislation versus regulation.

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The Chair (Mr. Garfield Dunlop): Further comments? Any more comments?

Mr. Jagmeet Singh: Sorry; I'm noticing the Clerk just wants me to repeat what I just said. What I'm asking direction from the committee on is that—this is not a contentious issue, I think we all agree, but the concern is

that the language may be somewhat too broad. Would it be acceptable to defer just this particular motion and this part of the legislation in the clause-by-clause and come back to it on the next day with something perhaps we could agree upon—maybe even at subcommittee just work out an amendment that actually tightens up the definition and then propose it on the next date and then just move it through quickly?

The Chair (Mr. Garfield Dunlop): So we're looking for agreement to stand down this particular motion.

Mr. Jagmeet Singh: Sorry; it would be the PC motion—I'm actually speaking about the PC motion—and the government motion because they both deal with the same thing. We just want to consolidate them and perhaps—

The Chair (Mr. Garfield Dunlop): Okay, just a sec. I've got to get clear on this. You're saying to stand down 0.3 and 0.3.01?

Mr. Jim McDonell: To give them a chance to work on them, and we can bring them back at our next meeting.

The Chair (Mr. Garfield Dunlop): Is everybody in favour of that, then? Okay, that's agreed upon. We're saying that both of these motions are stood down at this point, then.

Okay, we'll go to the next one, 0.3.1, which is an NDP motion. Mr. Singh.

Mr. Jagmeet Singh: Sure. This motion is actually quite similar to a PC motion but with one distinction. I'll read the motion, and then I'll explain.

I move that section 16.5 of the Collection Agencies Act, as set out in section 4 of schedule 1 to the bill, be amended by adding the following subsections:

“No contacting a debtor

“(6) If a debtor has entered into a debt settlement services agreement with a collection agency and the agency notifies the debtor's creditors that the debtor has entered into the agreement, the creditors shall not contact or attempt to contact the debtor to negotiate anything with respect to the debt that the debtor owes to the creditors, except if it is a licensee as defined in subsection 1(1) of the Law Society Act that contacts or attempts to contact the debtor for that purpose.

“Money received from debtor

“(7) A debt settlement services agreement is void unless it provides that the collection agency or collector under the agreement that receives money from a debtor for distribution to the debtor's creditors deposit the money into an account held in trust account jointly for the debtor and the creditors before distributing it to the creditors.”

There's a lot of words; it's somewhat wordy. Essentially, the subsection 6 component, the purpose or the spirit behind it is that if you do enter into an agreement for the services of a debt settlement service—what happens often is consumers are contacted regularly by a collection agency, and that causes a great deal of stress for consumers. The idea is that it would preclude that collection agency from continually harassing or calling

and speaking with the consumer. But one aspect that we were concerned with is that if there was some sort of legal implication or legal action, the creditor should be able to let the debtor know that they are facing a legal action, and if we didn't allow them to communicate for that purpose, then the creditor could basically send a lawsuit to the debt settlement service, and it may never get to the actual debtor. Basically, if I'm in debt, and I hire a debt settlement service company, they could correspond for me with the collection agents, and the collection agent wouldn't call me, but if the collection agent wanted to initiate a lawsuit, at that point, they should be able to contact me directly so that I know that I'm actually facing a lawsuit. That's what section 6 does, unless Mr. Wood or Mr. Hartung disagrees.

Section 7 just indicates that the money received from the debtor should be held in a trust account before it's distributed to the creditors, just to ensure some oversight of that part of the transaction.

The Chair (Mr. Garfield Dunlop): Okay, further questions? Mr. McDonell.

Mr. Jim McDonell: We agree with the spirit of this. We're just wondering if they would entertain an amendment for that purpose and put it in writing.

Mr. Jagmeet Singh: Sorry, Mr. McDonell, I missed what you said.

Mr. Jim McDonell: At the end of your part 6, that you shall "contact the debtor for that purpose" in writing.

Mr. Jagmeet Singh: I'd be happy with that, yes. That's fine. Just defining the contact: The contact technically would be service if it was actually a lawsuit. The service would actually be in person. Someone, in person, would have to hand it—but then there's all sorts of—maybe we can make it in accordance with the laws of service, so that it fits with the current—

The Chair (Mr. Garfield Dunlop): Am I correct in saying that you're looking for an amendment somewhere on section 6 here?

Mr. Jagmeet Singh: I support the concern that Mr. McDonell is indicating. I think he's essentially indicating that we don't want it to be that the lawyer or the paralegal or whoever the licensee on the law side is can just call the person and say, "We're going to sue you." He's saying that it should be done in a written manner, and I agree with the concept, but maybe the written manner is an actual initiation of a lawsuit, within the existing definition of how you serve someone to initiate a lawsuit.

I notice that Mr. Wood is looking on with some consternation. Perhaps he can illuminate us.

Mr. Michael Wood: I was thinking that perhaps we can achieve your purpose by inserting the words "in writing" before the final words "for that purpose," so that "in writing" would qualify the ways in which the collection agency could contact the debtor. "For that purpose" relates to negotiating with the debtor.

Mr. Neil Hartung: Just a point of clarification: This provision is actually operating on creditors, not on collection agencies. The Collection Agencies Act applies to third parties who collect on behalf of creditors. It does

not apply to direct collections. So the effect of this provision—at least reading it quickly—is that you're stopping creditors from being able to collect on the debts that they're owed. This provision doesn't actually control collection agencies; it controls the people who are outside the scope of the act, i.e. creditors.

Mr. Jagmeet Singh: Two questions arise from that. I still think it's important that it would prohibit a creditor from continually calling someone, and it would only allow them to call them if they've entered into a debt settlement service agreement. Then, a direct creditor would no longer be able to contact a debtor. Is that how you understand—

Mr. Neil Hartung: That's how I read the provision, yes.

Mr. Jagmeet Singh: So I support the motion. Whether someone is directly obtaining the debts owed to them or whether it's a third party, either way, if you enlist the services of a debt settlement service company, that person should deal with the debt settlement service company that you've made the arrangement with, and the exception to that should be if there is a legal action or if lawyers are involved. That's what my intention was. Do you agree that that's what's being said here?

Mr. Michael Wood: Yes, I agree with that. It's focused on the fact that, if there is a debt settlement services agreement in place, the creditors can no longer contact the debtor directly, but must honour the fact that there is a debt settlement services agreement and deal with the collection agency instead.

Mr. Neil Hartung: I don't want to say what creditors would do, but I would suggest that a provision like this means that you're going to see a lot more people being sued.

Mr. Jagmeet Singh: Or contacted by a lawyer. They can be contacted by a lawyer for an attempt to negotiate the settlement, and if they do want to commence legal action, any creditor is entitled to do so. A person could then respond in kind.

The Chair (Mr. Garfield Dunlop): So am I seeing that amendment happening here—the amendment to the NDP motion?

Mr. Jagmeet Singh: I'm happy with that—"in writing." I have no problem with the way Mr. Wood has suggested.

The Clerk of the Committee (Mr. Trevor Day): So Mr. McDonell's amendment is to insert the words "in writing" before the words "for that purpose" in subsection 6.

The Chair (Mr. Garfield Dunlop): Any discussion on the amendment? The amendment carries? Carried?

Mr. Vic Dhillon: No, no.

The Chair (Mr. Garfield Dunlop): Hold on a sec. I'm going to put the question on the amendment.

Mr. McDonell has made the amendment to Mr. Singh's motion. All in favour of the—

Interjection.

The Chair (Mr. Garfield Dunlop): Go ahead. You want to say something?

Mr. Jim McDonell: This really doesn't change the purpose of the amendment. It is only clarifying something—

Mrs. Donna H. Cansfield: You called the question, Chair.

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The Chair (Mr. Garfield Dunlop): I'll decide when the question is called. I'm giving everybody lots of opportunity on this, okay?

Go ahead.

Mr. Jim McDonell: I guess I would encourage that we vote for this change. There's still the chance, if they don't like the amendment, to vote that down, but all this does is clarify something, and I think that's in the best interests of it.

The Chair (Mr. Garfield Dunlop): Any further questions on the amendment?

All those in favour of the amendment? Those opposed to the amendment?

It's a tie vote. I won't be supporting the amendment.

We'll now go to the actual motion.

Mrs. Donna H. Cansfield: Recorded vote.

The Chair (Mr. Garfield Dunlop): Do you have any comments at all on the motion?

Mrs. Donna H. Cansfield: No, I just asked for a recorded vote.

The Chair (Mr. Garfield Dunlop): A recorded vote. Okay.

Mr. Jim McDonell: We're going back on the amendment, as amended?

The Chair (Mr. Garfield Dunlop): We're going back to the motion that wasn't amended. The amendment didn't pass.

Mr. Jim McDonell: Oh, okay.

The Chair (Mr. Garfield Dunlop): Now we're going back to the actual motion that Mr. Singh made.

Mr. Jim McDonell: I have nothing at this point.

The Chair (Mr. Garfield Dunlop): Mr. Singh?

Okay. Are there any further questions, then, on the motion moved by Mr. Singh?

It's a recorded vote.

Ayes

Forster, McDonell, Singh, Walker.

Nays

Cansfield, Crack, Dhillon, Mangat.

The Chair (Mr. Garfield Dunlop): I won't be supporting it, because it's a change to the format. It doesn't carry.

We're going to move to 0.3.1, the replacement. You had the original 0.3.1 and then you had a replacement.

Mr. Jagmeet Singh: A moment's indulgence, please.

Interjections.

Mr. Jagmeet Singh: I'll withdraw that motion.

Ms. Cindy Forster: Just say you're not moving this.

Mr. Jagmeet Singh: I'm not moving it. Sorry.

Ms. Cindy Forster: So you're not moving this one.

Mr. Jagmeet Singh: I'm not moving—I think what we were talking about was 0.3.1R. I'm not moving 0.3.1.

The Chair (Mr. Garfield Dunlop): Okay. So 0.3.1, then, is withdrawn.

We'll now go to the PC motion, which is Mr. McDonell: section 16.5.1, motion 0.4.

Mr. Jim McDonell: I move that section 4 of schedule 1 to the bill be amended by adding the following section to the Collection Agencies Act:

"Notice to creditors

"16.5.1(1) If a debtor enters into a debt settlement services agreement under which a collection agency is to receive all money from the debtor for distribution to the debtor's creditors, the agency shall cause a copy of the agreement to be provided immediately to the creditors.

"Debtor's credit rating

"(2) For as long as a debt settlement services agreement described in subsection (1) remains in effect and the debtor has not contravened it, no collection agency, collector or creditor that has been notified of the agreement under subsection (1) shall,

"(a) cause the debtor's credit rating to be changed; or

"(b) do anything that is prescribed as an act that would adversely affect the debtor's credit rating."

The Chair (Mr. Garfield Dunlop): Discussion? Mr. McDonell.

Mr. Jim McDonell: I think we just want to make sure that the settler notifies the creditors that he is the agent, and this then requires the creditors to deal with him and not the debtor. That's to do with the second part—oh, I'm sorry; that's the first part. We think that's an important part of this protection, and we would like to see that go through—as well as the credit rating. We think, until there's a final decision, that that should not be impacted, because it can have a very negative impact on the consumer.

The Chair (Mr. Garfield Dunlop): Okay. Any questions? Mr. Singh or government members?

Mr. Jagmeet Singh: I'm okay for now. I might have a question in just a moment.

The Chair (Mr. Garfield Dunlop): Mr. Dhillon?

Mr. Vic Dhillon: Yes, Chair. We won't be supporting this motion because we feel this is out of the scope of this act, so we will not be supporting this.

The Chair (Mr. Garfield Dunlop): Further debate? Mr. Singh.

Mr. Jagmeet Singh: Mr. Chair, through you to Mr. McDonell: The notice component of it is simply that when you enter into a debt settlement service agreement, the provider of services has to notify the creditors of the agreement. Is that the idea? That's one question. And the second component of it is that the debt settlement service provider has to ensure that they don't do anything that would negatively impact their creditor's credit rating or anything that would adversely affect their credit rating. If that's what it is, I think part 2 makes absolute sense and is very supportable.

Part 1, if I understand it, is just a notice provision. It doesn't say anything about the communication issue—just a clarification on that.

Mr. Jim McDonell: The intent is really quite important here. If you sign an agreement and you have an agent working for you, it is the responsibility of the agent, first of all, to identify to the creditors that he is the agent. Then the second part of that—and I think the whole idea of this whole bill is to ensure that the creditors actually deal with the agent and to stop the calls and the harassment that can occur to the consumer. So I believe that's what this bill is trying to get at, but we're just trying to clarify that, and maybe Mr. Wood would have comments on that or further clarification.

Mr. Michael Wood: Yes. I agree with those comments.

The Chair (Mr. Garfield Dunlop): Mr. Singh?

Mr. Jagmeet Singh: Mr. Wood, I just don't see that, in the "Notice to creditors" component—I'm looking at the same motion, 0.4. It doesn't prohibit the creditors from communicating, though I agree with Mr. McDonell that that's important. I don't see that prohibition of communication. Am I mistaken?

Mr. Michael Wood: I'm sorry, what did you say? It doesn't prohibit the—

Mr. Jagmeet Singh: My question is that in 16.5.1 of motion 0.4, it doesn't prohibit communication on the part of the creditor to the debtor.

Mr. Michael Wood: No, that's correct. It doesn't.

Mr. Jagmeet Singh: It's just a notice provision.

Mr. Michael Wood: That's right. It's a notice provision.

Mr. Jagmeet Singh: I agree with the idea of prohibiting communication, but this is just a notice part, which I also agree with.

Interjection.

Mr. Jagmeet Singh: Okay, sure. I agree with that.

The Chair (Mr. Garfield Dunlop): Further debate?

Mr. Jagmeet Singh: It's very straightforward. There is absolutely nothing controversial. I don't see why anyone would not support it. It just indicates that a debtor should provide notice to the creditors and let them know what's going on, and that the debt settlement service should ensure that what they do doesn't negatively impact the debtor's credit rating. I don't see any issue with that at all.

The Chair (Mr. Garfield Dunlop): Any further comments from the government members?

Mr. Jim McDonell: A recorded vote on it.

The Chair (Mr. Garfield Dunlop): A recorded vote on it, then.

Ayes

Forster, McDonell, Singh, Walker.

Nays

Cansfield, Crack, Dhillon, Mangat.

The Chair (Mr. Garfield Dunlop): I will be opposed to it because it changes the format, so that's not carried.

Mr. McDonell, the next one: 0.5.

Mr. Jim McDonell: I move that subsection 16.6(1) of the Collection Agencies Act, as set out in section 4 of schedule 1 to the bill, be struck out and the following substituted:

"Restrictions on payments for services

"Advance payment or security

"(1) A collection agency or collector that provides debt settlement services shall not require or accept, directly or indirectly, in advance of providing the services, any payment or security for payment, except a flat, one-off fee for administration and initial negotiation.

"Fee payable on successful settlement

"(1.1) A debt settlement services agreement may provide for a fee to be payable on successful settlement of all the debts to which the agreement applies.

"Restrictions

"(1.2) A fee described in subsection (1) or (1.1),

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"(a) shall not exceed the prescribed maximum amount or a maximum amount determined in the prescribed manner; and

"(b) shall not be calculated based on the debtor's debt obligations.

"No other fee

"(1.3) A collection agency or collector that provides debt settlement services shall not require or accept a fee for the services, directly or indirectly, except as described in subsections (1) and (1.1)."

The Chair (Mr. Garfield Dunlop): An explanation, Mr. McDonell?

Mr. Jim McDonell: I think it is a right of the provider not to work for free, but it would regulate the maximum amount. We think that there needs to be the opportunity for some remuneration; it's only fair in business. It talks about the existing regulation—can't charge unless they make the regulation. So I think this makes it clear that there are some changes and charges here.

The Chair (Mr. Garfield Dunlop): Okay. Further debate? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. We're not satisfied with the language of this motion, and we feel that there needs to be more consultation on this. So we will not be supporting this.

The Chair (Mr. Garfield Dunlop): Okay. Any comments, Mr. Singh?

Mr. Jagmeet Singh: Thank you very much, Mr. Chair. Through you to, I guess, the counsel, an issue that was brought up during the deputations was that a trustee in bankruptcy indicated that the payment plan that trustees are under—there is no similarity to that payment plan and what's proposed? That's my first question.

The second is, how would this impact the actual payment? From what I understand, it's entirely left to regulation, so that what someone could charge would be essentially, very much so, determined by or set by what

was in regulation, and there's no regulation—I don't think—that's set out right now.

Am I understanding that correctly?

Mr. Michael Wood: Broadly, yes. Subsection 16.6(1) that appears in the bill hinges directly on what limits are set by regulations, whereas this PC motion does set out certain payments that can be allowed.

Mr. Jagmeet Singh: What's the difference between the PC motion and what exists? In what manner would that change the ability to be remunerated under this motion versus the existing 16.6(1) in the original act?

Mr. Michael Wood: Well, in order to explain what subsection 16.6(1) does, we would have to see what the regulations say, but if there are no regulations made, we can't really say what the limits are as set by the regulations.

The PC motion would, irrespective of what regulations say, allow for certain fees to be charged by collection agencies.

The Chair (Mr. Garfield Dunlop): Mr. McDonell?

Mr. Jim McDonell: We just think that, as mentioned before we started here, there has to be some encouragement for the services to be there. We think if people are going to provide services, there should be the expectation that they should be partially paid for those. It puts it up front. It may be in the regulations; it may not be. We don't see those, and there's no requirement to issue those. I think it's just in line with that, that it allows for certain payments.

The Chair (Mr. Garfield Dunlop): Further debate? I'm going to call the question, then.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Garfield Dunlop): Recorded vote.

Ayes

Forster, McDonell, Singh, Walker.

Nays

Cansfield, Crack, Dhillon, Mangat.

The Chair (Mr. Garfield Dunlop): I won't be supporting it because of a change to the format of the bill.

We'll now go to 0.6, again a PC motion. Mr. McDonell?

Mr. Jim McDonell: I move that section 16.8 of the Collection Agencies Act, as set out in section 4 of schedule 1 to the bill, be amended by adding the following subsection:

"Same

"(1.1) For greater certainty, the payments for which a debtor may demand a refund under subsection (1) do not include any payments that the debtor or a collection agency acting on the debtor's behalf has made to the debtor's creditors."

The explanation of this is that if the service provider has provided funds back to the creditors, that should be taken into account. It's only fair that if—I know that the

consumer has paid his provider X amount of money, but if he has referred that back to the creditors, that should be removed. The government's bill does not specify that, so we think that's important.

The Chair (Mr. Garfield Dunlop): Does anybody have any further questions? Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Chair. We'll be voting against this because this amendment is unnecessary. The law only applies to monies paid to the debt settlement services provider. Payments to the creditors are not subject to this act.

The Chair (Mr. Garfield Dunlop): Mr. McDonell.

Mr. Jim McDonell: Just to clarify that—and maybe I'll ask the legislative counsel—you're entering into an agreement where you're making payments to your provider, who is then referring the money back to the creditors. You may have made a payment which includes money back to creditors. This bill does not allow you any credit for that. Maybe if we could ask legislative counsel just to comment on that.

The Chair (Mr. Garfield Dunlop): Do you feel comfortable making a comment? It doesn't matter—

Mr. Jim McDonell: Just for clarification.

Mr. Michael Wood: No, it's fair for me to comment on it. People can view this differently. Technically, the government is right in what it said, that a payment that is collected and transmitted to creditors is not a payment made under the debt settlement services agreement, because that's an agreement between the debtor and the collection agency. It doesn't cover payments that the debtor, in any event, is going to try to make to creditors.

However, having said that, it's certainly reasonable to say it doesn't do any harm to have the PC motion in, to clarify that.

I can't tell you what approach is the better approach. There is validity in either approach.

The Chair (Mr. Garfield Dunlop): Questions from the—

Mr. Vic Dhillon: Chair, can we have Mr. Hartung comment on that?

The Chair (Mr. Garfield Dunlop): Yes, you can. Mr. Hartung?

Mr. Neil Hartung: You take your act as you find it. It says "under the agreement." To me, that seems pretty clear that you're cancelling the agreement and you get the money back that you paid for the actual debt settlement services that were provided, not the money that's flowing out underneath that agreement to the creditors.

We can make lots of things very clear; the statute will be 1,500 pages long.

The Chair (Mr. Garfield Dunlop): Mr. McDonell.

Mr. Jim McDonell: I guess I'll comment on the comment that it would make it 1,500 pages long. I mean, you're adding a little clarification here, and I think that, really, our job is to make the laws clear. I kind of don't take that comment well. I think our job is to clarify it, and I think that's all we're trying to do.

For many people in this role, there may be people who have made payments, and to them, it's a payment to the

debt settler, but actually the debt settler has then referred that money back, in many cases, or a portion of it.

It just clarifies that. It's not a huge one, but I think sometimes clarity is worth it.

The Chair (Mr. Garfield Dunlop): Mr. Singh.

Mr. Jagmeet Singh: Yes, just on my behalf, a final point of clarification: Including this, if I understand Mr. Hartung's comment, is not going to change anything, because it's already set out in the act, the way the act is worded, that a refund would apply to the money given to a debt settlement service agency. But I understand that this wouldn't change that or impact that. As Mr. McDonell is saying, it may provide more clarity, but it doesn't significantly or substantially change or undermine the purpose of the bill.

Mr. Neil Hartung: No.

The Chair (Mr. Garfield Dunlop): Okay. Any further debate?

Mrs. Donna H. Cansfield: Excuse me. Can I ask a question? So is it redundant? Is the motion redundant?

Mr. Neil Hartung: I think you heard Michael say and you heard me say that technically, it's not necessary. But other than that, if clarity is required in some quarters—

Mrs. Donna H. Cansfield: Thank you.

Mr. Jim McDonell: Recorded vote.

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The Chair (Mr. Garfield Dunlop): Recorded vote? Okay.

Ayes

Forster, McDonell, Singh, Walker.

Nays

Cansfield, Crack, Dhillon, Mangat.

The Chair (Mr. Garfield Dunlop): Because it changes the format, I won't be supporting it, so it doesn't carry.

We won't vote on schedule 1, because we have the deferrals—section 4.

We'll now go to section 5. PC motion: Mr. McDonell.

Mr. Jim McDonell: I move that section 5 of schedule 1 to the bill be struck out and the following substituted:

"5. Section 22 of the act is amended by striking out 'or' at the end of clause (d), by adding 'or' at the end of clause (e) and by adding the following clauses:

"(d.1) communicate or attempt to communicate with a debtor for the purpose of collecting, negotiating or demanding payment of a debt of the debtor if the debtor has,

"(i) entered into a debt settlement services agreement, under which another collection agency acts for the debtor in arrangements or negotiations with the debtor's creditors or receiving money from a debtor for distribution to the debtor's creditors, and

"(ii) provided a copy of the agreement to the agency or collector that attempts to communicate with the debtor;

"(f) engage in any prohibited practice or employ any prohibited method in providing debt settlement services or in respect of debt settlement services agreements."

The Chair (Mr. Garfield Dunlop): Further questions? Any further debate?

Mr. Jim McDonell: What this does is it bans harassing calls once the debtor has entered into an agreement with a collection agency. I think that it just clarifies that part. Section 5 doesn't include creditors; it only deals with the debt settlers.

The Chair (Mr. Garfield Dunlop): Okay. Further debate on this?

Mr. Dhillon, do you have a comment?

Mr. Vic Dhillon: We'll be voting against this.

The Chair (Mr. Jagmeet Singh): Okay. Mr. Singh, do you have a question? Do you have any comments?

Mr. Jagmeet Singh: Yes, just to clarify, if I give you a scenario, perhaps, Mr. Wood and Mr. Trenton: In this case, a collection agency, based on this motion, would not be able to contact the debtor and would have to speak to the debt settlement service agency. But what if the collection agency wanted to commence a legal proceeding? Would they be precluded from contacting with respect to that? Or would they continue to have the right to communicate for the purpose of legal proceedings? That's my question. Or would it be precluded from any communication whatsoever, even if it is a lawsuit?

Mr. Michael Wood: Ideally, I'd like a bit of time to consider this, but just my first-hand reaction is that this new clause (d.1) is aimed at a situation where you have two debt settlement services agreements. You have one that's in place, for sure, and then you have another collection agency that comes along and communicates, or attempts to communicate, with the debtor, knowing that there already is an original debt settlement services agreement in place with another collection agency.

The Chair (Mr. Garfield Dunlop): Mr. Hartung.

Mr. Neil Hartung: The provisions themselves only apply to collection agents, right? Section 22 establishes the list of noes that collection agents can't do, and this would add to that list of noes.

The Chair (Mr. Garfield Dunlop): Okay. Any further questions from anyone?

Mr. Jagmeet Singh: What Mr. Wood is describing is, if there are two different debt settlement services, once you've already assigned one, another one couldn't come in and take over or communicate with them. That's what I understood Mr. Wood to say.

Mr. Michael Wood: A second one cannot come in and communicate with the debtor once there is an existing collection agency in place under a debt settlement services agreement.

Mr. Jagmeet Singh: Would that address the issue of a collection agency contacting a debtor repeatedly and harassing them? Would this motion prohibit a collection agency from contacting the debtor directly, and would

they instead have to go through the debt settlement service agency?

Mr. Michael Wood: It's only a prohibition in the context of there being two collection agencies involved.

Mr. Jagmeet Singh: I know that the definition of collection agencies applies to both a collection agency and a debt settlement service. Just for me to understand it, would you be able to distinguish between a debt settlement service and an actual collection agency in your response? Technically, since there is a Collection Agencies Act and there isn't a debt settlement services act, debt settlement services are subsumed under the Collection Agencies Act. When you were answering the question, you were just using the words "collection agency." I'm assuming that you meant "debt settlement services," but you were just using "collection agency" as a catch-all. Or did I misunderstand you?

Mr. Michael Wood: No, you're correct in that.

What we have already done in the bill—the committee has already passed the section which added a clause to the definition of "collection agency." Now, a collection agency, as a result of the amendments made in committee, does cover a person who provides debt settlement services.

Mr. Jagmeet Singh: Right. Just to understand this—if you could just break it down in terms of the debt settlement services and the collection agencies. Does this motion stop the collection agency from communicating with the debtor and require them instead to communicate with the debt settlement service? Is that what this motion is doing?

Interjection.

The Chair (Mr. Garfield Dunlop): Guys? Mr. McDonell has asked for a five-minute recess to get some clarification, to give counsel a chance to clarify this. Does everyone agree with that? So let's have a five-minute recess, and we'll pick up the debate after. Thank you.

The committee recessed from 1327 to 1332.

The Chair (Mr. Garfield Dunlop): Okay, we'll call the meeting back to order. We'll continue debate on 0.7. Mr. McDonell, do you have anything to add to 0.7?

Mr. Jim McDonell: Yes. It might be ambiguous, but what we're trying to do is that once a debtor has entered into a settlement agreement, aggressive collection calls on behalf of the creditors must stop. I guess, in talking to Michael, that may not be the way wording has come out in the intent. But that's what the intent of the amendment was.

The Chair (Mr. Garfield Dunlop): Any more debate? Did you want to add anything to that, Michael?

Mr. Michael Wood: No.

The Chair (Mr. Garfield Dunlop): Mr. Singh?

Mr. Jagmeet Singh: Mr. Chair, the initial intent which Mr. McDonell expressed is something that I support, and it's similar to the motion that we had put forward, 0.3.1. But this particular issue of not allowing another debt settlement service agency to compete with an existing one is not an issue that has come up with my

constituents. It's not an issue that came up in the committee hearings, nor is it a concern that was brought up by debt settlement services themselves, so it's not something that we're in a position to support.

The Chair (Mr. Garfield Dunlop): Any questions? I'm going to call the vote, then. Is this recorded?

Interjection.

The Chair (Mr. Garfield Dunlop): Okay, it is recorded.

Ayes

McDonell, Shurman.

Nays

Cansfield, Crack, Dhillon, Forster, Mangat, Singh.

The Chair (Mr. Garfield Dunlop): The motion doesn't carry.

With that, shall schedule 1, section 5 carry?

Interjection.

The Chair (Mr. Garfield Dunlop): I'm just totalling up that one section. I need to make sure the whole section will carry. Shall schedule 1, section 5 carry? That's carried.

We'll now go to schedule 1, section 6. The NDP want to make a few comments. They've got a notice here.

Mr. Jagmeet Singh: Yes. I'm just going to read out section 6 subsection (1):

"Use of unregistered collection agency

"(1) No person shall knowingly engage or use the services of a collection agency, other than debt settlement services, unless the agency is registered under this act."

My understanding of the way this is worded is that it essentially makes an exception for debt settlement services, that you can engage with a debt settlement service that's not registered. I think what that does is kind of undermines the whole purpose of bringing debt settlement services into the Collection Agencies Act. I may be misunderstanding that, but if that's what this says, I'm suggesting that we don't support it, because what it does is it allows unregistered collection agencies. The name of it would suggest that what I'm saying is right, because the description of that subsection says, "Use of unregistered collection agency". So it's essentially allowing, if I'm not mistaken—and I ask Mr. Trenton and Mr. Wood to respond to this. It's essentially opening up the potential for an unregistered collection agency, namely a debt settlement service that's not registered, and you could use it. If that's the case, I don't think we should support it.

Mr. Hartung and Mr. Wood, if you can please respond to that.

The Chair (Mr. Garfield Dunlop): Please feel free.

Mr. Neil Hartung: This is an adjustment to what exists in the act already, which says, "No person shall knowingly engage or use the services of a collection agency that is not registered under this act." When we got in the new provisions, we didn't want to be in a situation

where consumers could be charged under that provision, and that's why we have the "except for a debt settlement services agreement."

The Chair (Mr. Garfield Dunlop): Further debate? Or are there any further comments on Mr. Singh's comments?

Mr. Jagmeet Singh: So what this does is it allows for a consumer who mistakenly uses a debt settlement services agency, thinking it was registered perhaps, but it turns out it wasn't registered—we don't want that person to then be liable to any sort of sanction or punishment for doing something that wasn't necessarily their fault, or they made a mistake, or whatever the reason was.

Mr. Hartung: Correct.

Mr. Jagmeet Singh: Okay. That's fine. This is simply a notice, anyway. I'm not proceeding on the notice.

The Chair (Mr. Garfield Dunlop): Okay. We'll now call the question on schedule 1, section 6. Shall schedule 1, section 6, carry? Carried.

There are no amendments to either sections 7 or 8. Shall schedule 1, sections 7 and 8, carry? Carried. They're both carried.

Now to section 9 and the PC motion.

Interjection.

The Chair (Mr. Garfield Dunlop): Sorry?

The Clerk of the Committee (Mr. Trevor Day):

This amendment is dependent on an earlier one that we stood down. For that reason, it should be stood down as well.

The Chair (Mr. Garfield Dunlop): Okay. We're going to stand down 0.8. It's stood down.

The PC motion is a replacement motion. Mr. McDonell.

Mr. Jim McDonell: We're on 0.9R, is it?

The Chair (Mr. Garfield Dunlop): Motion 0.9R, yes.

Mr. Jim McDonell: I move that section 9 of schedule 1 to the bill be amended by adding the following subsection:

"(2) Section 30 of the act is amended by adding the following subsection:

""Trust accounts

""(2) A trust account that a collection agency is required to hold shall be held in a separate account in Ontario designated as a trust account at a bank listed in schedule I or II to the Bank Act (Canada), a trust corporation, a loan corporation or a credit union."

The Chair (Mr. Garfield Dunlop): Mr. McDonell, comments?

Mr. Jim McDonell: We just think that the trust account should be held in Ontario or in a place that can be deemed by most concerned consumers as a fair and adequate trust.

The Chair (Mr. Garfield Dunlop): Any comments on it? Mr. Singh first and then over to the government members.

Mr. Jagmeet Singh: Sure. Similarly, there are restrictions around how lawyers hold their trust accounts and the requirements of where they're held and at what type

of institution. I think it's consistent and it makes sense that if it's a collection agency operating in Ontario, the trust account that it operates should be held in Ontario as well. I think that's consistent. It makes sense, and it's something that's supportable.

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The Chair (Mr. Garfield Dunlop): To the government members.

Mr. Vic Dhillon: Chair, we'll be voting in favour of this motion.

Interjections.

Mr. Neil Hartung: There are already trusting requirements in section 17 of the regulation. You're amending a regulation-making section of the act with a substantive provision that is neither here nor there, as far as I'm concerned. The trusting requirement is already in the statute, and if I'm not mistaken, it's pretty well in the same language that's being proposed here.

The Chair (Mr. Garfield Dunlop): Mr. Singh.

Mr. Jagmeet Singh: Mr. Trenton, if I understand what you're saying, the regulation prescribes something very similar already. Instead of having a regulation that is subject to minister discretion, it just clarifies what it is without having a discretionary component. It just states the definition of where it should be. Is that what it is? And are there any pros and cons to that?

Mr. Neil Hartung: I don't think that those sections in the regulation have changed in any number of years. They've been there, as far as I know, since the statute was enacted and rolled out.

I can tell you that that wording is very similar to what's in the regulation, from a legal perspective. Whether it's in the statute or whether it's in the regulation, those are of equal force and have equal authority.

As to whether this motion should be made, that's not for me to say.

Mr. Jagmeet Singh: That's fine. I think you laid out that there were really no significant pros and cons. That helps us. Thank you.

The Chair (Mr. Garfield Dunlop): Mr. McDonell, you have a question?

Mr. Jim McDonell: I'm just asking if Mr. Wood would—we've had some discussion on it, but are they equivalent, in your mind?

Mr. Michael Wood: I don't have the text of the regulation in front of me, so I shouldn't comment on that. If I did have it, I'd be able to comment. I have to rely on what ministry counsel says.

Mr. Jim McDonell: They're saying that it's covered in the regulations. We thought it should be put in the legislation itself.

Mr. Michael Wood: That's a policy choice for the committee to make.

The Chair (Mr. Garfield Dunlop): Mr. Singh?

Mr. Jagmeet Singh: I guess I'm stating the obvious, but at the end of the day, a regulation, although Mr. Hartung indicated it hasn't been changed since the enactment of the bill—I guess the main difference is that a regulation can be changed, versus legislation, which is

set unless it's changed by the will of the assembly. So one is ministerial discretion, and one is the will of the assembly. That's really the distinction, if I'm not mistaken.

The Chair (Mr. Garfield Dunlop): Further comment? I'm going to put the question, then, on Mr. McDonell's motion.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Garfield Dunlop): Recorded vote.

Ayes

Cansfield, Crack, Dhillon, Forster, Mangat, McDonell, Shurman, Singh.

The Chair (Mr. Garfield Dunlop): That's carried. Thank you very much.

I take it that the next amendment is redundant? It's a replacement motion—PC motion number 9.

Interjections.

The Chair (Mr. Garfield Dunlop): It's not being moved whatsoever?

Interjection.

The Chair (Mr. Garfield Dunlop): It's withdrawn. Okay.

Section 9 is stood down for now.

We now go to sections 10 right through to 19. We've got no amendments proposed there. Is schedule 1, sections 10 to 19, carried? Carried.

We'll now go to section 2.

The Clerk of the Committee (Mr. Trevor Day): So we're going to stand down schedule 1 because we still have some things to deal with in it.

The Chair (Mr. Garfield Dunlop): Okay. So the overall schedule we'll stand down for now because there are some things to deal with.

We'll now go to schedule 2.

Mr. Jim McDonell: Chair, are we starting schedule 2 now?

The Chair (Mr. Garfield Dunlop): We're starting schedule 2, yes.

Mr. Jim McDonell: Can we ask for a 20-minute recess?

The Chair (Mr. Garfield Dunlop): A 20-minute recess?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): They're asking for a 20-minute recess.

The Clerk of the Committee (Mr. Trevor Day): They have to agree.

The Chair (Mr. Garfield Dunlop): They have to agree. Okay.

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): Okay. A 20-minute recess.

Interjections.

The Chair (Mr. Garfield Dunlop): We're starting a 20-minute recess right now.

Mr. Vic Dhillon: No, we don't—

The Clerk of the Committee (Mr. Trevor Day): They're not agreeing on a 20-minute recess.

The Chair (Mr. Garfield Dunlop): We can't? I thought you said we had to.

The Clerk of the Committee (Mr. Trevor Day): No, we don't have to unless it's before a vote.

The Chair (Mr. Garfield Dunlop): Okay. Mr. McDonell, we don't have agreement on your 20-minute recess. Okay?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): All right. Can we proceed then?

The Clerk of the Committee (Mr. Trevor Day): Schedule 2, section 1.

The Chair (Mr. Garfield Dunlop): Okay. Go to schedule 2, section 1. There are no amendments on that.

Shall schedule 2, section 1, be carried? Carried.

We'll now go to schedule 2, section 1.1. It's a new section. Mr. McDonell.

Mr. Jim McDonell: I move that schedule 2 to the bill be amended by adding the following section:

"1.1 The definition of 'direct agreement' in subsection 20(1) of the act is amended by striking out 'in person' in the portion before clause (a)."

The Chair (Mr. Garfield Dunlop): Mr. McDonell, that's outside the scope of this bill, so it's not open. It's out of order.

Mr. Jim McDonell: We just think that—you know, we're dealing with—

The Chair (Mr. Garfield Dunlop): I know. There's no debate. It's out of order.

Mr. Jim McDonell: Okay. Can I just make a comment on it?

The Chair (Mr. Garfield Dunlop): No. We're going to go to the next one.

Ms. Cindy Forster: So what was ruled out of order?

The Clerk of the Committee (Mr. Trevor Day): It's 0.10.

Ms. Cindy Forster: 0.10, okay.

Mr. Jagmeet Singh: Mr. Chair, what was the reason provided for why it was out of order?

The Chair (Mr. Garfield Dunlop): It's outside the scope of the bill.

The Clerk of the Committee (Mr. Trevor Day): Section 20 is not open in the bill.

The Chair (Mr. Garfield Dunlop): Okay. We'll now go to the NDP motion. Section 10.1.

Hold on. We have no amendments to schedule 2, section 2.

Shall schedule 2, section 2, be carried? Carried? That's carried.

Now we'll go to the NDP motion. Mr. Singh.

Mr. Jagmeet Singh: Yes. This is motion 0.10.1, and it impacts—

The Chair (Mr. Garfield Dunlop): You've got a replacement one?

Mr. Jagmeet Singh: Do I?

The Chair (Mr. Garfield Dunlop): Mr. Singh, you have a replacement motion?

Mr. Jagmeet Singh: I do, yes; sorry. This is 0.10.1, our replacement.

I move that section 3 of schedule 2 to the bill be struck out and the following substituted:

“3. Section 42 of the act is amended by adding the following subsections:

““Disclosure of information

“(2) Before a supplier enters into a direct agreement with a consumer that requires the supplier to supply to the consumer a water heater or other goods or services that are prescribed, the supplier shall disclose the following to the consumer:

““1. The identity of the supplier.

““2. That the supplier is a private retailer and not a representative of any other supplier or a local utility, regulator or government agency.

““3. That there is a cooling-off period described in subsection 43(1) during which the consumer may cancel the agreement and a description of the rules in subsection 43.1(1).

““4. That the consumer may have financial and other obligations to another supplier with whom the consumer has previously entered into a direct agreement for the same purpose if the consumer cancels the latter agreement.

““5. That by signing the agreement, the consumer may be entering an agency agreement whereby the supplier may act on the consumer's behalf.

““6. The start date and length of the agreement.

““7. The cost that the consumer is required to pay under the agreement, including the amount of any periodic charge, any additional charges payable after the supply of the goods and taxes.

““8. The possible energy savings attributable to the goods supplied under the agreement.

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““9. An indication whether the supplier or the consumer is entitled to assign the agreement.

““10. The means whereby the consumer can contact the supplier to make a complaint, request information or renew the agreement.

““11. The means whereby the consumer can contact the ministry or the Competition Bureau to make a complaint.

““Minister's regulations

“(3) In addition to the power of the Lieutenant Governor in Council to make regulations under section 123, the minister may make regulations,

“(a) governing contents of direct agreements and requirements for making, renewing, amending or extending direct agreements;

“(b) requiring a supplier under a direct agreement to disclose to the consumer the information specified in the regulation, governing the content of the disclosure and requiring the supplier to take the other measures specified in the regulation to ensure that the consumer has received the disclosure.”

The Chair (Mr. Garfield Dunlop): Would you like to speak to that, Mr. Singh?

Mr. Jagmeet Singh: Certainly. It's actually just specifying what the disclosure of information is, putting it into legislation and clearly identifying the areas of concern that constituents have raised. It's stating it all in a very clear and, I would suggest, exhaustive manner, and making sure that it's part of the legislation and not left to regulation.

The Chair (Mr. Garfield Dunlop): Okay. Mr. McDonell.

Mr. Jim McDonell: We were hoping that section 8 could be—that we deal with it later on. We think that that information should come from the manufacturer, which may be the intent here, but we were going to be more clear about that.

Interjection.

Mr. Jim McDonell: Point 8? Are we on—

The Chair (Mr. Garfield Dunlop): We're talking about section 10 here—

The Clerk of the Committee (Mr. Trevor Day): No, actually we're on section 3 of schedule 2.

The Chair (Mr. Garfield Dunlop): Section 3 of schedule 2, and you're saying point 8?

Mr. Jim McDonell: What's the—I'm sorry. You're dealing with 0.10.1?

The Chair (Mr. Garfield Dunlop): The motion that's in front of us is the NDP motion, 0.10.1R, and you're saying—what were you asking to do?

Mr. Jim McDonell: Because it's split into—yes, okay. We were looking at point 8. Is that the second page of it?

Interjection.

Mr. Jim McDonell: Okay. Yes, we were looking at dealing with that separately because we think that they should be dealing with the manufacturers' savings. I think one of the issues we have is, there are a lot of claims being made about the energy savings. Really, that should come from the manufacturer.

We deal with that motion later on, so we'd like to see that—

The Clerk of the Committee (Mr. Trevor Day): Are you amending that to strike it?

Mr. Jim McDonell: Yes, we'd like to see that struck out and added later on, in our motion.

The Chair (Mr. Garfield Dunlop): I'm not clear what's happening here.

Mr. Jim McDonell: We have a motion later on that asks that the energy efficiencies actually come from the manufacturer of the equipment. First, it's from a claim from the door-to-door salesmen. We feel that it will carry more weight. We have an issue now, we hear from our depositions, that there were claims being made at the door that aren't backed up.

The Chair (Mr. Garfield Dunlop): So you're suggesting we remove that section 8. Are you moving that?

Mr. Jim McDonell: Yes, we'd like to amend it and cover it through our amendment later on, which calls for that to be disclosed by the manufacturers' information.

The Chair (Mr. Garfield Dunlop): Okay. Mr. McDonell wants section 8 removed. He's moving that it be removed from your motion, Mr. Singh.

Mr. Jim McDonell: And just be addressed separately, that it be handed out as—the information being provided through manufacturers' information as opposed to just coming from the door-to-door salesmen. We deal with that separately in our own motion—or we could amend yours and just add that that information be handed out as manufacturers' information, if that would work.

Mr. Jagmeet Singh: Okay. Mr. Chair, I agree with Mr. McDonell's comment because in point 8, it says, "The possible energy savings attributable to the goods." It doesn't specify that that should come from something verified by the manufacturer of the actual product so that it's something verifiable. I agree that that's an important clarification, so I think that this should be—I can move my own amendment—the energy—

The Chair (Mr. Garfield Dunlop): Can I just—

Mr. Jagmeet Singh: Yes.

The Chair (Mr. Garfield Dunlop): He's moving an amendment to remove section 8 from your amendment. Is there any debate on that?

Mr. Jim McDonell: Can I withdraw that amendment?

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Jim McDonell: I'll withdraw my amendment.

The Clerk of the Committee (Mr. Trevor Day): He's not going to amend his own. You have to amend his.

Mr. Jim McDonell: Oh, okay. I'm sorry.

The Clerk of the Committee (Mr. Trevor Day): If Mr. Singh wants to change his amendment, he would withdraw the original and re-move it with 8 missing, reading the whole thing again.

You can move an amendment to strike number 8.

Mr. Jim McDonell: Okay. Can I make an amendment, then, that we clarify, in number 8, that the information provided come from the manufacturer, as opposed to—

The Clerk of the Committee (Mr. Trevor Day): What's the exact wording on the amendment?

Mr. Jim McDonell: It's not specific, and I would think that we'd make the wording specific so that the information provided on energy efficiencies would actually be manufacturing documentation, as issued on the—

Mr. Jagmeet Singh: "As provided by the manufacturer."

Mr. Jim McDonell: Yes.

The Clerk of the Committee (Mr. Trevor Day): At the end?

Mr. Jim McDonell: Sure.

The Clerk of the Committee (Mr. Trevor Day): You want "as provided by the manufacturer" at the end?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): Okay. Now we're going to ask for discussion on Mr. McDonell's motion.

Mr. Jim McDonell: I think that we all heard that there are a lot of claims being made at the door. This just clarifies that if you're going to make a claim that your

unit is energy-efficient—these things are all handled by the TSSA and through their standards. I think that that's the information that should be provided. There is already some legislation that looks after that in another field, so we would be sure that the information coming in that would be accurate and readable for the consumer.

The Chair (Mr. Garfield Dunlop): Okay. Has everyone heard Mr. McDonell's explanation about his amendment?

Mr. Vic Dhillon: Could you read that?

The Clerk of the Committee (Mr. Trevor Day): My understanding is that number 8 will now read, "The possible energy savings attributable to the goods supplied under the agreement as provided by the manufacturer."

Is that correct? That's the amendment.

The Chair (Mr. Garfield Dunlop): That's the amendment. Okay. Those in favour, then, of the amendment? Opposed?

Okay, that's a tie.

I'll support you on that one, because it's a clarification.

We'll now go to the actual amendment made by Mr. Singh, as amended.

Mr. Singh, did you want to explain that further?

Mr. Jagmeet Singh: If there are any questions. Like I said initially, it's just providing a clear disclosure of the information that needs to be provided, things that we've talked about before. You want to let the people know, let the consumer know, that there's a cooling-off period.

We want to require that they identify who the supplier is. There has been a lot of confusion. People indicate, at the door—the representative holds themselves out to be someone from either the government or from a government agency, or they hold themselves out to be the provider of the energy. This would just require that they have to indicate who they are, and that they're not a representative of any other supplier, local utility, regulator or government agency. It just specifies what the disclosure of information is and puts it into legislation.

There is nothing in this that's controversial in terms of the content. It's simply a matter of putting it in legislation.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Crack?

Mr. Grant Crack: Thank you very much, Mr. Chair. I think the general intent of the motion is noteworthy, but at the same time, we believe that we can encompass a lot of these concerns within regulations. As we move forward, we want to be able to adapt to industry concerns and the changes within the industry as well, so we'll be voting against it in order to be able to implement the substantive regulations.

The Chair (Mr. Garfield Dunlop): Okay. Further comments? Mr. McDonell?

Mr. Jim McDonell: Again, I think the whole purpose of this—we heard many complaints from different sides of the industry that the door-to-door salesmen's credentials and what they were providing were always in

question. We think that this just spells something out and adds more consumer protection.

The Chair (Mr. Garfield Dunlop): Okay. Any further debate?

I'm going to call the question, then, on the amended motion.

Those in favour of the amended motion by Mr. Singh?

Mr. Jagmeet Singh: Recorded, Chair.

The Chair (Mr. Garfield Dunlop): Recorded? Okay. I'm recording these motions as much as possible.

Ayes

Forster, McDonell, Shurman, Singh.

Nays

Cansfield, Crack, Dhillon, Mangat.

The Chair (Mr. Garfield Dunlop): I will not be supporting this, because it changes the format of the intent of the bill.

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Mr. Grant Crack: Point of order, Mr. Chair.

The Chair (Mr. Garfield Dunlop): Yes?

Mr. Grant Crack: Just for my clarification, the process by which a recorded vote can be requested: Perhaps the Chair—

Interjection.

Mr. Grant Crack: Well, that's a concern as well. But at what point can a recorded vote be called? I've experienced this in different committees as well, even the one that I'm chairing, so I would like clarification. If a vote is called and the hands are up, is it appropriate for a member to be calling a recorded vote once the hands are up?

The Chair (Mr. Garfield Dunlop): My understanding is that once we call for the vote, someone can immediately ask for a recorded vote. In the last round, which most of the votes have been recorded this afternoon, I thought, in fact, that they wanted it to be recorded. That's why I had asked for it to be recorded. It was my fault.

Mr. Grant Crack: No, no, I'm not—

The Chair (Mr. Garfield Dunlop): It's nobody else's fault there.

Mr. Grant Crack: Thank you, Chair. I'm just looking for some clarification as to when the hands go up and then we can all see who is voting and then a request for a recorded vote comes through. Is it in order or is it too late? I guess, that's the question that I want, and not only for this committee but for every committee that I sit on in the future.

The Chair (Mr. Garfield Dunlop): I'll ask Trevor to explain that.

The Clerk of the Committee (Mr. Trevor Day): When the question is put, normally before the ayes are called for, "those in favour, those opposed," is when a recorded vote is requested. There is traditionally some

leniency, depending on what, but it is before the question itself is put.

Mrs. Donna H. Cansfield: Is it a member who requests it?

The Clerk of the Committee (Mr. Trevor Day): It would be requested by a member in the committee.

The Chair (Mr. Garfield Dunlop): Mr. McDonell?

Mr. Jim McDonell: So it's before the question is put or immediately after? Lots of time, you're waiting and there's discussion and—

The Chair (Mr. Garfield Dunlop): When I ask for the question, when I call the question, I'm now going to call the question on a certain motion.

Mr. Jim McDonell: Then we ask then.

The Chair (Mr. Garfield Dunlop): Then you can ask at that point. Okay?

Mr. Jim McDonell: Okay.

The Clerk of the Committee (Mr. Trevor Day): You can ask previous to that, like well before.

The Chair (Mr. Garfield Dunlop): Before I ask for "in favour," you can ask for a recorded vote up until that point. Okay?

Mr. Jim McDonell: Okay, yes.

The Chair (Mr. Garfield Dunlop): My understanding is, according to Trevor here, you may want to do that as soon as you've made your initial statement, "I want a recorded vote on this." Okay?

Mr. Jim McDonell: Oh, okay.

The Chair (Mr. Garfield Dunlop): All right. Everybody straight on that? Okay. Thank you.

We now go to the NDP motion—

The Clerk of the Committee (Mr. Trevor Day): What are they doing with 0.10.1?

The Chair (Mr. Garfield Dunlop): I'm going to that right now. Mr. Singh?

Mr. Jagmeet Singh: We're not moving—

The Chair (Mr. Garfield Dunlop): 0.10.1?

Mr. Jagmeet Singh: Yes, we're not going to be moving that motion.

The Chair (Mr. Garfield Dunlop): You'll be withdrawing that?

Mr. Jagmeet Singh: Just not moving it.

The Chair (Mr. Garfield Dunlop): Okay. Shall schedule 2, section 3 carry? Carried.

Now we'll go to schedule 2, section 3.1, which is a new section. There are a couple of PC motions here, long motions. Mr. McDonell?

Mr. Jim McDonell: I just want to make sure I have my—

The Chair (Mr. Garfield Dunlop): Okay. You've got a fairly long one here. Okay, Mr. McDonell, it's yours.

Mr. Jim McDonell: All right, it's just formatted differently.

I move that schedule 2 to the bill be amended by adding the following section:

"3.1 The act is amended by adding the following sections:

"Direct agreements re: water heaters etc.

"Application

"42.1(1) This section applies with respect to a direct agreement that requires the supplier to supply to the consumer a water heater or other goods or services that are prescribed.

"Duty of supplier's representative

"(2) Before making, renewing, amending or extending the direct agreement, the supplier's representative shall,

"(a) identify himself or herself to the consumer, and

"(b) give the consumer a business card showing the representative's name, identifying the supplier and providing contact details for the supplier.

"Manufacturer's technical information only

"(3) The supplier's representative may give the consumer information that is published by the manufacturer about the energy efficiency, safety and technical specifications of the water heater or other goods that are prescribed, but shall not provide such information from any other source.

"Lease, all-in monthly cost

"(4) If the direct agreement provides for the lease of the water heater or other goods, it must specify the all-in monthly cost of the lease, excluding harmonized sales tax and government fees.

"Verification call

"(5) Upon making, renewing, amending or extending the direct agreement, the supplier shall arrange to have an independent third party contact the consumer, in accordance with the following rules, to verify that the consumer agrees to making, renewing, amending or extending the agreement, as the case may be:

"1. The independent third party shall not be the same person as the representative who acted on behalf of the supplier for making, renewing, amending or extending the agreement.

"2. The remuneration which the supplier pays to the independent third party for making a verification call shall not depend on the outcome of the verification.

"3. The contact shall take place by way of a telephone call, which the independent third party shall record.

"4. The independent third party shall advise the consumer, at the beginning of the telephone call, that the call is being recorded.

"5. The independent third party shall,

"i. provide his or her name to the consumer,

"ii. identify himself or herself as an independent third party who is making a verification call required by this act,

"iii. verify the consumer's identity,

"iv. identify the agreement, and

"v. verify that the consumer agrees to making, renewing, amending or extending the agreement, as the case may be.

"Disclosure, replacement of goods

"(6) Before a supplier enters into an amendment, renewal or extension of a direct agreement that requires the consumer to accept a replacement of any goods that the supplier supplied to the consumer under the original agreement, the supplier shall disclose to the consumer

that such is the effect of the amendment, renewal or extension, as the case may be.

"Minister's regulations

"(7) In addition to the power of the Lieutenant Governor in Council to make regulations under section 123 and in addition to the minister's power to make regulations under subsection 42(2), the minister may, by regulation,

"(a) require that a direct agreement to which this section applies be in a prescribed form; and

"(b) prescribe a form for the purposes of clause (a).

"Right of termination, lease

"(8) If the direct agreement provides for the lease of the water heater or other goods, the consumer may terminate the agreement at any time by giving notice to the supplier or by having another supplier, whom the consumer has authorized in writing for that purpose, give notice to the supplier; the termination terminates the rights and obligations of the parties under the direct agreement effective from the date on which the notice is given to the supplier.

"Consumer's obligations on termination

"(9) A consumer who terminates a direct agreement under subsection (8) is not liable in damages to the supplier if the consumer,

"(a) returns to the supplier, in accordance with the agreement, all goods leased to the consumer under the agreement; or

"(b) causes an amount to be paid to the supplier, not exceeding the amount determined by the following formula:

$$A - (A \times B \div 120)$$

"where,

"A = the estimate that the supplier makes in good faith of the value of the goods leased to the consumer under the agreement, which shall not exceed the manufacturer's suggested retail price plus harmonized sales tax, and

"B = the number of months that have elapsed under the agreement until the termination, counting the final part of a month, if any, as a whole month.

"Title to goods

"(10) If the consumer causes the amount described in clause (9)(b) to be paid to the supplier, the supplier shall transfer title to the goods and all of the supplier's rights under warranties affecting the goods,

"(a) to the consumer; or

"(b) to the person to whom the consumer directs the supplier in writing to make the transfer.

"Non-application of part VIII (Leasing)

"42.2 Part VIII (Leasing) does not apply to the lease of a water heater or other goods that are prescribed."

The Chair (Mr. Garfield Dunlop): Mr. McDonnell, did you want to have an explanation of that or a comment on it?

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Mr. Jim McDonnell: Yes, just a couple of points: We were looking around, and if you look at the duty of the supplier's representation, just around proper ID, we feel that is not covered.

The manufacturer's technical information: Again, efficiency seemed to be a large issue here. We want to make sure that the information given can be verified, and the manufacturer's information is a way of doing that.

If I could move on to the lease, the all-in monthly, we think that that's just something that should be very much obvious to the consumer. It's important for some of the regulations that deal with the consumer getting exactly what he thought he was purchasing.

If I go down a little bit further—I'm just looking for some of the highlights here.

"Disclosure, replacement of goods": We're just looking to make it consumer-friendly.

Some of the stuff that's not in the legislation—if you look down at "Minister's regulations," we just allow the minister to prescribe the form. We think that the type of form can be important, especially if it's seen that somebody is not following what I think the average person would think would be a form that's very clear.

I think those are the highlights, so let people ask questions, if they have any.

The Chair (Mr. Garfield Dunlop): Okay. Further comments on this motion from anyone? Mr. Singh?

Mr. Jagmeet Singh: There may be a lot of questions, because it's rather lengthy. I'll begin with just the last part, "Non-application of part VIII (Leasing)" and 42.2. What is the impact of that last line? Perhaps starting with Mr. McDonnell, and if not, then Mr. Wood. If you could explain that, Mr. McDonnell?

Mr. Jim McDonnell: Well, I think we heard some depositions that there may be a way of getting out of the intent of this bill, if people were allowed to use part IV. So we just wanted to make sure that that wasn't an option.

The part VIII is meant to deal with the hot water tank issue. It would just clarify that.

Mr. Jagmeet Singh: Okay, so let me put it to Mr. Wood, then. Is the impact, then, of 42.2—would that get rid of leasing as a loophole? If I understand what you're saying, Mr. McDonnell, right now, the way it stands, if it's not a rental agreement, it's a lease agreement. Technically, all the protections wouldn't apply to a lease agreement, but they would apply to a rental agreement. This 42.2, the last part of this motion, would close that loophole and not allow leasing to exist. Is that what it's doing, or is it doing something else?

Mr. Michael Wood: Generally, that is what it is doing, because if it's a lease, it would be covered by part VIII of the Consumer Protection Act, 2002. What this particular section is saying is that rather than apply the rules in part VIII of the Consumer Protection Act, we apply everything that is set out in this motion instead.

I think it would be good to ask the ministry counsel to confirm this as well, but in just taking a quick look at part VIII of the Consumer Protection Act, it seems that there is not much in part VIII. Most of what is in part VIII directs readers to regulations for setting out obligations and determining the rights of parties for such things as requirements about representations or requirements about disclosure statements.

Mr. Jagmeet Singh: Mr. Chair, my apologies to Mr. Hartung for calling him Mr. Trenton so many times. I don't know where I even got that from.

Mr. Neil Hartung: I understand. He's a really nice guy, too.

Mr. Jagmeet Singh: Mr. Hartung, if you could please—Hartung, right? Yes. If you could please respond.

Mr. Neil Hartung: Sure. Part VIII deals with the cost-of-leasing disclosure. That's largely what it does. It doesn't have special remedies attached to it. If you were going to lease a car, for example, they would have to disclose the implicit financing rate in a certain way.

It's certainly possible for someone who is providing water heaters into the market to use part VIII, and if they do use part VIII, part IV of the act, which contains the cooling-off period, does not apply to the transaction.

The Chair (Mr. Garfield Dunlop): Mr. McDonnell?

Mr. Jim McDonnell: I just want to make clear—I had it backwards. But part IV is really what—we're looking at trying to solve some of the issues, so we want to make sure that that applies to the hot water door-to-door sales.

The Chair (Mr. Garfield Dunlop): Okay. Any comments from the government members? Mr. Dhillon?

Mr. Vic Dhillon: Chair, a lot of what's in this motion is already covered by the minister's regulation authority. As well, there is a lot of redundancy in this motion, so we'll be voting against it.

The Chair (Mr. Garfield Dunlop): Further comments from anyone? Mr. Singh.

Mr. Jagmeet Singh: Sorry, I heard the redundancy issue, the argument that there is redundancy in this, but what was the other reason—my apologies, Mr. Dhillon—for not supporting it?

Mr. Vic Dhillon: Because the minister has the powers to make changes under regulation-making authority.

The Chair (Mr. Garfield Dunlop): Mr. McDonnell?

Mr. Jim McDonnell: I guess you could have gotten rid of this whole bill if we're going to rely on regulations for everything. What we're doing is addressing an issue here, and I think it was pointed out rightly that the bill, as it is here—it's a simple change. You've gone to making a fairly exclusive bill to cover hot water heaters. We're just saying that we should further specify that if you're entering into an agreement, you can't fall under another subsection; you have to fall, I guess, under the part IV that's here.

The Chair (Mr. Garfield Dunlop): Further debate? Mr. Singh? Anyone?

Mr. Jagmeet Singh: Yes. I have a couple of issues that I want to reflect on. I'm wondering if I can ask the committee's indulgence for a five-minute recess just to look it over. It's a particularly long motion; other motions are a lot shorter. I think there are some key components that are of great interest, and I want to be able to give it the proper time, so I need to reflect on it.

The Chair (Mr. Garfield Dunlop): A five-minute recess?

Mr. Jagmeet Singh: Yes.

The Chair (Mr. Garfield Dunlop): Agreed? Okay. Five-minute recess. Be back here at 2:22.

The committee recessed from 1417 to 1422.

The Chair (Mr. Garfield Dunlop): The five-minute recess is up. We'll now go back to Mr. McDonell.

Mr. Jim McDonell: Just a couple of things.

One thing we wanted to clarify: The termination clause that is in here is very similar—exactly, I guess you'd say—to the wireless bill that's being proclaimed this afternoon, whether it's a straight-line depreciation, with the penalty or buyout clause, I guess you'd call it, at the end.

For instance, if you get a 10-year agreement, after five years, typically, to get out of your contract, you have to make the supplier whole for the material value of it. But, of course, saying that, after you pay for that, it's your hot water heater. So there's no need to worry about giving it back, because it is yours, unless there's another agreement in the contract that actually gets it back and gives you a credit for that.

The Chair (Mr. Garfield Dunlop): Further debate? Mr. Singh.

Mr. Jagmeet Singh: Two questions. One is, beginning with the—actually, I have three questions. So beginning with the verification call, having the verification call laid out in legislation, my question is, does this allow for more flexibility in the way that the call is carried out? I guess this question is for Mr. McDonell and Mr. Wood, and perhaps Mr. Hartung as well, if we can get three perspectives on it. Does the verification call being laid out in legislation mean that there is more flexibility given to the independent caller, the verification call, meaning that they don't have to follow a specific script; they just have to make sure that they have these things covered off? So that's one question. Let's start with that, actually.

Mr. Jim McDonell: I'll defer to—

Mr. Michael Wood: The advantage of putting requirements in legislation, as you yourself indicated earlier in this committee, is that the requirements are set there in the legislation, and the legislation can only be amended by the assembly.

The disadvantage of putting requirements in regulations is that they can be amended whenever the regulations are amended, and regulations are made, typically, by the Lieutenant Governor in Council or by a minister and not subject to assembly approval.

So imposing requirements by legislation allows you more flexibility but gives you no guarantee of what the requirements are going to be. You've got more guarantee of what the requirements are going to be if you put it in the legislation, which is harder to amend. However, once you put the requirements in the legislation, that doesn't mean you are prevented from building on those requirements, adding additional requirements by way of regulation.

Mr. Jagmeet Singh: Mr. Chair, through you again; and I also want to hear from Mr. Hartung on this—the scripted call was an issue. To protect the consumer, if there was a scripted call, there were certain require-

ments—not just certain requirements—that the entire language of the call had to be a certain way. So you would have to start off with a certain greeting, identification and follow along. That model, having a scripted call that was specific in terms of what was actually said versus having this legislation, which in the verification call lays out the components of the call but doesn't necessarily say the script in terms of what you actually have to say—can you speak to that difference?

Mr. Michael Wood: Well, I can attempt to give you an answer. It strikes me on a practical level that the more you put requirements on what the call is supposed to contain, the safer you would be to have an actual scripted call, to make sure that you include all those requirements when you make the call. That's not to say that you must have a scripted call where every single word is laid out, but, as I say, the more you put requirements in there, the more there's the danger that you might miss something if you are not following a script or a checklist.

Mr. Jagmeet Singh: Mr. Hartung, do you have a comment on this notion of having the requirements in the legislation versus having a scripted call that actually has the exact content laid out?

Mr. Neil Hartung: Certainly, I think the experience in a related sector that was a problem of concern—energy marketing—went down the road of doing scripted calls for the very reason that an outline of your obligations is easy to get around with, and you can still get things out of consumers that you perhaps ought not to have received from them. That's why that particular regime went down the scripted call route. I don't see this sector of consumer harm to be any different, and that would suggest that you'd want to go with a scripted call.

The Chair (Mr. Garfield Dunlop): Mr. McDonell? Or did you have another question, Mr. Singh?

Mr. Jagmeet Singh: I have some more, but it's okay. I want to share my time.

Mr. Jim McDonell: Just to address that, I think what this does is that it puts in a minimum amount, and I think adding a script to the legislation is certainly not something you want to do. That may come at the minister's sides, but all we're looking at are some of the basics. We think that in legislation, wanting these points—they're just common sense, but from what we heard today they're not being done today. People are coming in, they're claiming to be somebody else, they're not showing ID. We're just looking at some of the basics we put in there.

Of course, if there are issues, the minister can always address those later on, but sometimes you don't know the issues until you get into the workings and see how industry handles this. From what we're hearing, there are a few bad players out there, but I would hope that most of the industry is on the up and up.

The overall bill also allows that if somebody's not a good player, the penalties later on can be significant. I think they've taken out some of the incentives to be a bad player because you can now be turned back after a cooling-off period that wasn't necessarily there.

Anyway, this is a minimum and the government can always go further.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Singh.

Mr. Jagmeet Singh: Thank you very much, Mr. Chair. Through you, Mr. Chair, this would actually go back specific to Mr. Hartung. I'm having a hard time finding it, if it's there. I remember reading something along the lines of this, but Mr. Hartung, is there a regulation requiring a scripted call in the current act?

Mr. Neil Hartung: In the current act? No.

Mr. Jagmeet Singh: Okay. Is there a regulation that would allow for a scripted call?

Mr. Neil Hartung: We have legal authority to do a scripted call, yes.

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Mr. Jagmeet Singh: Having the requirements listed out in the verification call doesn't impact the ability to have a scripted call, does it?

Mr. Neil Hartung: Well, to the extent that the legislation specifically says you have to do something, then you've lost that room to manoeuvre underneath the regulation. So if you find, "Oh, we made a mistake, and in fact that's not the way we should be phrasing it," you would have to come back to the Legislature and get that changed.

The Chair (Mr. Garfield Dunlop): Mr. McDonell.

Mr. Jim McDonell: I guess that's right, but of course, you're looking at, "These are the components that are going to be in a scripted call." I don't think there's any disagreement around the table. If you look at it, they're providing their name—I would hope that any scripted call would not only have these minimum items, but they'd probably have more. Would anybody look at this and think that when you're calling back to verify, you'd want to have anything less? You'd probably want more, but never less.

The Chair (Mr. Garfield Dunlop): Go ahead, Mr. Singh.

Mr. Jagmeet Singh: Mr. Chair, my next question is regarding the right of termination. It's written "Right of termination, lease" and then the first line says, "If the direct agreement provides for the lease of the water heater...."

The first question is, we're speaking of water heater rentals. There's a language of "lease" here, and then the last bit is to preclude the concept of leasing so that this is all captured in the rental. Was that the intention, to use the word "lease" there? Or should there be a friendly amendment for that to be a rental?

Mr. Jim McDonell: You're looking at 8?

Mr. Jagmeet Singh: Yes, section 8. I could perhaps ask Mr. Wood.

Mr. Michael Wood: I'm not sure I understand the question. Is the question, should there be "rental" instead of "lease"?

Mr. Jagmeet Singh: Yes, that's the question.

Mr. Michael Wood: I think that really means the same thing. I thought you might be asking, is there a reference to a direct agreement that provides for the lease of

a water heater, which would be a subset of direct agreements that require the supply of a water heater. "Supply" is not saying whether it's a purchase situation or whether it's a lease situation.

Mr. Jagmeet Singh: I understood that the last component of 42.2—the reason why the last component was added in is that there's a potential loophole that if you structure the agreement as a lease as opposed to a rental agreement, section 4 would no longer apply and, instead, section 8 would apply. That's why 42.2 exists, to get rid of that loophole—which made sense to me. If that's the case, then I just thought the language was somewhat unclear, using the word "lease." I might be wrong on that. It may not have any bearing whatsoever. I'm just curious if that makes the waters more murky.

Mr. Jim McDonell: You're saying "lease" or "rental"?

Mr. Jagmeet Singh: Yes. Do you agree? Is there any sort of impact?

Mr. Michael Wood: I personally do not see any difference between talking about a lease or a rental situation. I think "lease" was used because the term "lease" is used in the Consumer Protection Act itself, particularly in part VIII.

Mr. Neil Hartung: Down on the ground, there is a difference between a lease and a rental. You never own a rental. The mischief that you're dealing with here is about the rental of water heaters, not the lease. Part of the reason that there is an exemption for part VIII leases is because if you're leasing a water heater as a financing matter, you own it at the end of the day; whereas in the water heater model that you're concerned with, you never own it, and you get to pay in perpetuity for this water heater at \$9 a month or whatever it is, and they will take it out when it finally breaks down.

The Chair (Mr. Garfield Dunlop): Mr. Crack has a question too. I'm just going to go around here again.

Mr. Grant Crack: Thank you, Mr. Chair. I just wanted to put our position on the table. We find that this is too detailed for the legislative changes, and we'd like to address these through regulations. We respect what's in there, but we also would want to consult with industry to make sure that as we prescribe the regulations and create the regulations, we're addressing the concerns presently and for the future not only of industry, but of consumers as well.

The Chair (Mr. Garfield Dunlop): Absolutely, yes. Mr. McDonell.

Mr. Jim McDonell: I'm looking at it, and—how do you get out of not talking about the end-of-service contract? We're talking about a lease. There has to be one day that you own the thing. One of the issues we've heard about was people being billed for equipment that was many years old when, likely, they should have owned it.

This same government was very strict on the rules they put in the wireless bill, where, at the end of a two-year period, you own the cellphone. We're doing the same thing. We think that at the end of a prescribed period, you should own it and you should know what that

is, because if you don't, how do you ever know what the cancellation fee is? I don't think you can do one without the other. When somebody comes—and it can be anybody—to sell you the unit, you have to be able to know what it's going to cost to get out of it. If you haven't got anything that says there's some type of drop-dead—we suggested 10 years. We think after 10 years, it should be worked into the lease, those details. You should own it after that. We put in a buyout clause, which is exactly the same as your cellphone bill: If you own it for five years, then you should only be left with paying half the cost of the unit, and if you're going to pay that money, then you own it. There should be no problem with trying to return it. If the company wants it back and is willing to take it, that's fine, but really, it's yours. You can leave it in place or do what you want.

If you don't have that addressed in the bill, what's the bill doing?

The Chair (Mr. Garfield Dunlop): I understand. Further questions? Further debate?

Mr. Jagmeet Singh: Yes. I guess my first suggestion is that for section 8 to now, having heard the different opinions on it, I think it should be amended to say “rental” instead of “lease,” then, just to keep the language consistent, because there is a difference between a rental and a lease. That's why there are different sections regarding rentals and leases. I would suggest that that might clarify that issue—and then there are some other questions I have as well.

The Chair (Mr. Garfield Dunlop): Are you making an amendment to this motion?

Mr. Jagmeet Singh: Yes. I'm making an amendment that if the direct agreement—I don't know how to word it, but maybe one amendment should be that “Right of termination, lease” should be “... termination, rental.”

Then, “If the direct agreement provides for the rental of the water heater or other goods, the consumer may....” The rest is fine—as long as “lease” is replaced with the word “rental.”

The Clerk of the Committee (Mr. Trevor Day): The headings are not amendable and they will be changed by leg. counsel more editorially, depending on—

Mr. Jagmeet Singh: That's fine, then.

The Clerk of the Committee (Mr. Trevor Day): So your point is on 8? You would like to strike the word “lease” in the first line and replace it with the word “rental”?

Mr. Jagmeet Singh: Yes, that's my amendment. I can explain it, and then people can vote on it.

The Chair (Mr. Garfield Dunlop): Everyone understand? Okay. We've got a motion here right now by Mr. Singh to make an amendment to Mr. McDonell's motion. Mr. McDonell.

Mr. Jim McDonell: Can I ask Mr. Wood the significance of that and if it's what I think the intention is? I just wonder, is that getting beyond the scope of this bill? Because you're not allowed to talk about “lease.” There's some point—well, you answer first, and then I'll maybe clarify my points after.

Mr. Michael Wood: I find I'm in a difficult situation here because perhaps what I said earlier was in disagreement with ministry counsel. I don't have the benefit of being able to do a computer search of the Consumer Protection Act or the regs right now in front of me. I don't see any definition of either “rental” or “lease” in the Consumer Protection Act. There is a definition of “lease” in part VIII of the Consumer Protection Act. It doesn't appear to say that there is a difference between that and “rental.”

I would think that if you have an agreement whereby the person who is paying the rent has the right to acquire title to the goods at the end of the agreement, that has to be spelled out in the agreement. So I find I really can't comment on what the effect of this would be.

Mr. Jim McDonell: Okay.

The Chair (Mr. Garfield Dunlop): Okay. We've got a motion moved by Mr. Singh. Are there any further comments on the motion?

Mr. Jim McDonell: Maybe I'd just ask a question: Is the intent here to exclude idea of the lease where you would own the unit after so many years? Is that the intent? Or it would always just be a straight rental and you'd never own it? If that's the case, is that what the intent of this bill is? I thought there was some point in time when there was a buyout clause. There has to be something that allows the consumer to eventually get out of something without paying a huge penalty.

1440

Mr. Jagmeet Singh: So actually, I strongly—

The Chair (Mr. Garfield Dunlop): Mr. Singh, could I ask Mr. Hartung to make a comment on this, please?

Mr. Jagmeet Singh: Yes, for sure.

Mr. Neil Hartung: There's certainly variation in the marketplace as to what transaction you're entering into. You could have both: You lease it for a certain amount of time, and you own it at the end; or you rent it in perpetuity, but you have the right to return it when it stops working. I don't think that you'll be able to clearly get either one basket or the other with the drafting here. Part of the reason that my ministry relies so heavily on regulations is because there isn't a single business model out there that we're trying to regulate. There are various facets to how the particular industry is operating. I think that's what you're experiencing here and trying to get an answer to. There is no one single reduction that we can do on this fraction. There's multi-faceted business models out there.

Mr. Jim McDonell: I guess I can see where you're coming from, but one of the issues we heard was that people could have the same unit in their basement for years and years—10 or 15 years. They always find that when they want to get out of the agreement, they have to buy a new one, basically, to get out. I think that we're looking at something that actually puts an end date—not that you can't continue on month-by-month. That's just good business. But there must be some day in the agreement that the consumer is not penalized for finally saying, “I've been in the house 20 years, and I think I want

to try something else.” Right now, that’s an issue. If you come in with direct sales, all of a sudden it becomes an issue, but it’s not for all the sales. We’re just wondering how you—

Mr. Neil Hartung: Even on a lease, you can own the vehicle at the end of the lease if you lease to own, or you can just give it back and walk away and not buy it. I think there’s that same kind of variation in the water heater market. You have some people who are renting HVAC systems—not water heaters per se, but an expensive furnace—and they’re choosing to lease that as a financing matter; whereas other people, not so much in the HVAC area but in the water heater area, are renting that water heater with a view that they never want to own it. To give that water heater free and clear to the consumer once its economic life is over—I don’t know that you’re doing them any great favour either, particularly if their agreement was that once it’s at the end of its economic life, the supplier will come in and swap in a new one.

Mr. Jim McDonell: I think all we’re saying, though, is that there is a time frame that if you decide to get out of it, you can get out without a penalty, but if you choose to leave it there, just like—I know people with cell-phones who were on the contract, and they just keep going month-to-month because they’re happy with what they have. The same thing would apply here. What it does allow is if you want to get out after X number of years, 10 or 15 years, at least you’re not forced to pay for damages on something that really should be beyond its life. It would be like asking for someone with the first Apple that came out and saying, “You want a new one, but we’re going to make you pay for the old one because there’s no termination clause.”

Mr. Neil Hartung: I just cycle back to what I said earlier, which is there are a lot of different business models out there, and there are a lot of different agreements with consumers. To focus in on one, you’re going to miss some stuff that exists in the other permutations of the model.

The Chair (Mr. Garfield Dunlop): Okay, I want to get to the point where we’re getting a vote on Mr. Singh’s amendment. Have we got any more comments on that?

Mr. Jagmeet Singh: Yes.

The Chair (Mr. Garfield Dunlop): I’m sorry; on your amendment to—

Mr. Jagmeet Singh: On my amendment, yes, thank you. My purpose for the amendment, just to answer Mr. McDonell’s question, was that I just want to keep the language clear so we know that we’re dealing with rentals, and then leases are dealt with separately. But now, having heard—it’s somewhat of a blurry area. I wanted to keep it clear so that we knew we were dealing with rentals, and then a lease would be dealt with—this entire act would apply to leases in terms of the protection.

But when it comes to cancellation component, I actually agree with Mr. McDonell about the cancellation. I don’t want my amendment to undermine the purpose of

what Mr. McDonell wanted. I just wanted to be consistent in terms of the language.

The Chair (Mr. Garfield Dunlop): Are you withdrawing the amendment?

Mr. Jagmeet Singh: It sounded a bit like it, didn’t it? I don’t think it’s undermining it. Perhaps Mr. Wood or Mr. Hartung—maybe just Mr. Wood, actually, because you wrote this actual motion. If I replace the word “lease” with “rental,” is that undermining the purpose of what this subsection 8 is achieving?

Mr. Michael Wood: In my opinion, it is not undermining the purpose.

Mr. Jagmeet Singh: It’s not undermining it? Okay. Then I stand with my amendment, because it’s for clarity purposes.

The Chair (Mr. Garfield Dunlop): Are the members ready to vote on this amendment, first of all?

Mr. Grant Crack: Yes, Mr. Chair.

The Chair (Mr. Garfield Dunlop): On Mr. Singh’s amendment to Mr. McDonell’s motion: Those in favour? Those opposed? I’ll go with the amendment for now. The amendment carries.

On the overall motion by Mr. McDonell: Any more comments on it, as amended?

Those in favour of the motion—you’ve got a comment?

Mr. Jim McDonell: Yes.

Mr. Grant Crack: We called the vote.

The Chair (Mr. Garfield Dunlop): I’m calling the vote now. Those in favour of—

Interjection.

The Chair (Mr. Garfield Dunlop): Did I hear “recorded vote”?

The Clerk of the Committee (Mr. Trevor Day): Yes.

The Chair (Mr. Garfield Dunlop): Okay. A recorded vote. Those in—

Mr. Jagmeet Singh: I still have more questions. I thought I could ask another question before going on.

Interjections.

The Chair (Mr. Garfield Dunlop): I’m calling the question on this one. All those in favour of Mr. McDonell’s motion?

Ayes

McDonell, Milligan.

Nays

Cansfield, Crack, Dhillon, Mangat.

The Chair (Mr. Garfield Dunlop): That motion does not carry.

Mr. McDonell, you have a second—I assume you’re removing 0.11.1?

Mr. Jim McDonell: Let me just get back to the—

The Chair (Mr. Garfield Dunlop): Withdrawn? You had the replacement motion on top that you made.

Mr. Jim McDonell: Sorry, yes.

The Chair (Mr. Garfield Dunlop): Okay, so there's no section 2—there's no new section.

We'll now go to schedule 2, section 4. We have an NDP motion by Mr. Singh. That's 0.11.1.

Mr. Jagmeet Singh: Just a moment's indulgence, please. Mr. Chair, just to speed things up, I may be in a position to withdraw this motion. I just need a couple of minutes of recess. I may be withdrawing it and we'll be able to move on, but I just need a couple of minutes to confirm that this is not a redundant motion.

The Chair (Mr. Garfield Dunlop): What did you ask for?

Mr. Jagmeet Singh: Just a couple of minutes of recess so I can confirm whether or not I'm going to proceed with this motion.

The Chair (Mr. Garfield Dunlop): Okay, we'll have a five-minute recess. Can we agree to a—

Mrs. Donna H. Cansfield: I actually wanted to defer this motion.

The Chair (Mr. Garfield Dunlop): Pardon me?

Mrs. Donna H. Cansfield: I'd like to defer the motion, Chair.

The Chair (Mr. Garfield Dunlop): Sorry. The motion has not even been moved at this point.

Mr. Jagmeet Singh: That would achieve the same thing; I don't mind. I could move it and if you want to defer it, it achieves the same goal. I just want to look it over. Either way, if we defer it, I might just withdraw it on the next date. Deferring is fine with me. Whatever everyone agrees with, I'm happy with.

The Chair (Mr. Garfield Dunlop): Maybe it would be better if you deferred. Could we ask you to defer?

Mr. Jagmeet Singh: Sure. So I have to move it and then we defer. Is that the right process? I'll move it; it's sort of lengthy to read out, but okay.

I move that subsection 43(1) of the Consumer Protection Act, 2002, as set out in subsection 4(2) of schedule 2 to the bill, be struck out and the following substituted:

"Cancellation: cooling-off period

"(1) A consumer may, without any reason, cancel a direct agreement at any time from the date of entering into the agreement until,

"(a) in the case of a direct agreement that requires the supplier to supply to the consumer a water heater or other goods or services that are prescribed, 20 days, or such other period as is prescribed, after,

"(i) the consumer has received the written copy of the agreement,

"(ii) the supplier has confirmed with the consumer, in accordance with the prescribed requirements, after entering into the agreement that the consumer has agreed to enter into the agreement, and

"(iii) the supplier has met all the requirements for entering into the agreement; or

"(b) in the case of all other direct agreements, 10 days after the consumer has received the written copy of the agreement.

"Person doing confirmation

"(1.1) The person who contacts the consumer on behalf of the supplier for the purpose of making the confirmation described in clause (1)(a) shall not be the same person who enters into the agreement with the consumer on behalf of the supplier.

"No contacting the consumer

"(1.2) Except for making the confirmation described in clause (1)(a), a supplier that has entered into a direct agreement with a consumer shall not initiate any contact with the consumer during the period during which the consumer is entitled to cancel the agreement under subsection (1)."

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I ask that this motion be deferred.

The Chair (Mr. Garfield Dunlop): Okay, we're deferring this one. Thank you very much.

We'll now go to PC motion 0.12. That's Mr. McDonell.

Mr. Jim McDonell: Thank you, Chair. I move that section 4 of schedule 2 to the bill be amended by adding the following subsection:

"(3) Section 43 of the act is amended by adding the following subsection:

"Waiver by consumer

"“(1.1) A consumer under a direct agreement may waive the right described in clause (1)(a) by giving notice to the supplier.”"

We just think that consumers have the right to waive that. There will be times he's having some issues. I know the thought would be that if he has a repair, he'll always be calling somebody back in, but lots of times that's when you want to look around. You may contact or look in the newspaper or the phone book and find out—or give somebody a call that turns out to be a direct sale because now they come out to the home to give you an estimate. So I think that, if you have to repair—your unit is down and you want it fixed—you should have the option to go wherever you want. I think the legislation, without allowing you to opt out of the 20-day period, is really kind of—it gets dangerous for somebody that wants to come in and place it up front.

The Chair (Mr. Garfield Dunlop): Okay. Further debate? Mr. Dhillon?

Mr. Vic Dhillon: Thank you, Chair. We will not be supporting this, as such waivers of cooling-off periods are not permitted anywhere in the consumer law as administered by the Ministry of Consumer Services.

The Chair (Mr. Garfield Dunlop): Further questions? Mr. McDonell?

Mr. Jim McDonell: I just find it hard to believe that if, really, they've got an issue and they're without service, that you'd be expected to go in and install a unit knowing that, by any whim, the customer could ask for it to be removed and you're on the hook for all costs and all damages and putting it back. I think there has to be some right for the consumer to ask that. You know, he's waiving his right; I think the verification calls that are to be put in place, although we don't see them here in the legislation, would be directed in such a way that they

would ensure that the consumer knew these rights, knew what he was doing and acted in his own best interest.

The Chair (Mr. Garfield Dunlop): Okay. Further debate on this? I'm going to call the question.

Mr. Jagmeet Singh: Just one quick comment.

The Chair (Mr. Garfield Dunlop): Okay, go ahead.

Mr. Jagmeet Singh: Sorry, while there's some logic to the idea of having the consumer make an informed decision, at the end of the day, the purpose of the cooling-off period is to provide protection for the consumer, and we have to make sure we put the consumer's interests first. I believe there are a number of consumer advocates who have said that the cooling-off period is essential. Because of those advocates and because that's the concern around consumer protection—though I see some of the logic behind it, I will have to oppose it.

The Chair (Mr. Garfield Dunlop): I'm going to call the question, then. Those in favour of Mr. McDonell's motion? Those opposed? The motion doesn't carry.

Okay, we'll now go to 0.13. It's probably all we're going to get time for today, if we can get through this one. Mr. McDonell?

Mr. Jim McDonell: Chair, I'd like to call a five-minute recess just to discuss this motion. We have an issue with it that we'd like to talk with leg. counsel on, if that's possible, or at least defer it to the next meeting. We can move on to the next one if that's—

The Chair (Mr. Garfield Dunlop): Well, could we defer it, then, and get one more in?

Mr. Jim McDonell: Sure.

The Chair (Mr. Garfield Dunlop): Okay, we'll defer. Is that okay with everyone if we defer that one?

Mrs. Donna H. Cansfield: I'm sorry, do they have to read it into the—no? Okay.

The Chair (Mr. Garfield Dunlop): Okay. Then we'll go to PC motion 0.14. Mr. McDonell?

Mr. Jim McDonell: I move that section 4 of schedule 2 to the bill be amended by adding the following subsection:

“(3) Section 43 of the act is amended by adding the following subsections:

“Cancellation: billed amount

“(1.1) In the case of a direct agreement that requires the supplier to supply to the consumer a water heater or other goods or services that are prescribed, the consumer may cancel the agreement during the 30-day period following his or her receipt of the first bill from the supplier if the billed amount differs from the all-in monthly cost specified in the agreement.

“Same

“(1.2) When a consumer cancels, under subsection (1.1), a direct agreement that requires the supplier to supply a water heater, the supplier,

“(a) shall remove the heater without charge if the consumer so requests;

“(b) shall pay any administration and installation costs incurred by the consumer in making a replacement agreement with another supplier; and

“(c) shall not make any charge to the consumer in connection with the cancelled agreement except a monthly rental charge pro-rated for,

“(i) the time from the date of installation of the heater to the date of cancellation, if a heater was installed under the cancelled agreement, or

“(ii) the time from the effective date of the cancelled agreement to the date of cancellation, if an existing heater was used under the cancelled agreement.”

I'm just looking through my notes here—

The Chair (Mr. Garfield Dunlop): If there's going to be a lot of debate on this particular motion, I'm going to leave it until the next meeting on November 20. If there's not and we're ready to vote now, we'll vote right away. Do you have a fair amount of debate on this?

Mr. Jagmeet Singh: I'm supportive of this one.

The Chair (Mr. Garfield Dunlop): Go ahead.

Mr. Jim McDonell: We just think that the whole premise of this bill is that you're promoting a certain all-in cost. If, for some reason, you get your first billing and the contract is not in agreement with what your decided cost was up front, then I think we're just saying that the consumer can cancel the bill and should be made whole for it. We want to make sure that the contract that is in place is very clear, so that these costs are very clear to the consumer, and it'd be in the best interests of all parties to come to that conclusion.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Singh, you had a comment?

Mr. Jagmeet Singh: No. I just support it. I think it makes sense. It just allows for greater consumer protection.

The Chair (Mr. Garfield Dunlop): Okay. Any of the government members?

Mr. Grant Crack: I'm ready to vote.

The Chair (Mr. Garfield Dunlop): Okay. I'm going to call the vote, then, on this bill.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Garfield Dunlop): Recorded vote.

Ayes

Forster, McDonell, Milligan, Singh.

Nays

Cansfield, Crack, Dhillon, Mangat.

The Chair (Mr. Garfield Dunlop): Okay. It changes the format of the bill, and I will not be supporting it, so that does not carry.

With that, ladies and gentlemen, that concludes the meeting for today. We will adjourn until November 20 at 12 o'clock noon, when we will continue on with clause by clause. Thank you very much, everybody.

The committee adjourned at 1458.

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Also taking part / Autres participants et participantes

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Ministry of Consumer Services, legal services branch

Clerk / Greffier

Mr. Trevor Day

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Mr. Michael Wood, legislative counsel

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Second Session, 40th Parliament

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Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Wednesday 20 November 2013

Journal des débats (Hansard)

Mercredi 20 novembre 2013

Standing Committee on the Legislative Assembly

Stronger Protection
for Ontario Consumers Act, 2013

Comité permanent de l'Assemblée législative

Loi de 2013 renforçant
la protection
du consommateur ontarien



Chair: Garfield Dunlop
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 20 November 2013

Mercredi 20 novembre 2013

*The committee met at 1208 in committee room 1.*STRONGER PROTECTION
FOR ONTARIO CONSUMERS ACT, 2013
LOI DE 2013 RENFORÇANT
LA PROTECTION
DU CONSOMMATEUR ONTARIEN

Consideration of the following bill:

Bill 55, An Act to amend the Collection Agencies Act, the Consumer Protection Act, 2002 and the Real Estate and Business Brokers Act, 2002 and to make consequential amendments to other Acts / Projet de loi 55, Loi modifiant la Loi sur les agences de recouvrement, la Loi de 2002 sur la protection du consommateur et la Loi de 2002 sur le courtage commercial et immobilier et apportant des modifications corrélatives à d'autres lois.

The Chair (Mr. Garfield Dunlop): Good afternoon, everyone, and welcome to the Standing Committee on the Legislative Assembly. We're here to discuss clause-by-clause consideration of Bill 55, An Act to amend the Collection Agencies Act, the Consumer Protection Act, 2002 and the Real Estate and Business Brokers Act, 2002 and to make consequential amendments to other Acts.

I'd like to welcome the committee members here today. We will return now to the motions that were stood down at the last meeting. I should also point out to everyone that, under the programming motion, we have three hours today to complete our amendments. If we don't get those amendments completed, those amendments will be amended as up to date—so if we don't get a few amended for some reason, they have to stay that way, okay? That's under the programming motion agreed to by the House leaders.

Okay, so the first one I think we would have here—just to go back to schedule 1, section 4—would be a PC motion. There were a couple stood down. It's 0.3.0.1R—

Interjection.

The Chair (Mr. Garfield Dunlop): Okay, so hold on a second.

Interjection.

The Chair (Mr. Garfield Dunlop): Oh, I'm sorry. We'll go back to that, yes.

It's just motion 0.3. Mr. McDonell, can you go ahead with that one? You'll have to read it into the record again, please.

Mr. Jim McDonell: Okay, so you're looking at 0.3?

The Chair (Mr. Garfield Dunlop): It's 0.3, the PC motion, and that part was stood down before, because we had a replacement after that.

Mr. Jim McDonell: We were looking at withdrawing that in favour of the government motion or amendment that's coming through.

The Clerk of the Committee (Mr. Trevor Day): Okay, so 0.3 is withdrawn?

The Chair (Mr. Garfield Dunlop): You're withdrawing 0.3?

Mr. Jim McDonell: There's a government amendment that looks after most of what we were looking at.

The Clerk of the Committee (Mr. Trevor Day): Okay, so that's withdrawn.

The Chair (Mr. Garfield Dunlop): So that's withdrawn. Okay.

So then we go to the government motion, Mr. Dhillon? And that's—let me make sure I got the right one on this.

Mr. Vic Dhillon: I move that subsection 16.5(1) of the Collection Agencies Act, as set out in—

The Chair (Mr. Garfield Dunlop): Hold on. Just excuse me a sec. Which one is this again?

The Clerk of the Committee (Mr. Trevor Day): Which one are you reading now?

Mr. Vic Dhillon: The government motion—

The Clerk of the Committee (Mr. Trevor Day): What number?

Mr. Vic Dhillon: It's 0.3.0.1R.

The Clerk of the Committee (Mr. Trevor Day): So 0.3.0.1R—this is the replacement. Okay, that's in the secondary package that everyone received.

The Chair (Mr. Garfield Dunlop): That's on everybody's desk? Okay.

Mr. Vic Dhillon: Is that the right one?

The Clerk of the Committee (Mr. Trevor Day): Yes.

Mr. Vic Dhillon: I'll start again—

Mr. Jim McDonell: Chair?

The Chair (Mr. Garfield Dunlop): Yes, go ahead.

Mr. Jim McDonell: Just to clarify the number in the top corner that he's reading, is it 0.3.0.1R? Which one is he reading now?

The Chair (Mr. Garfield Dunlop): He's reading 0.3.0.1R.

Mr. Jim McDonell: Okay.

The Chair (Mr. Garfield Dunlop): Okay?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): All right.

Mr. Vic Dhillon: Thank you. I'll start all over again.

The Chair (Mr. Garfield Dunlop): Yes, thank you very much. Go ahead.

Mr. Vic Dhillon: I move that subsection 16.5(1) of the Collection Agencies Act, as set out in section 4 of schedule 1 to the bill, be amended by striking out "and" at the end of clause (a), by adding "and" at the end of clause (b) and by adding the following clause:

"(c) disclosed to the debtor in the agreement all information that is reasonably necessary to explain the sources of the agency's funding and all other information that is prescribed about the sources of the agency's funding."

I think this just combines the previous motions and it's just coming up with a compromise. I think the words "reasonably necessary" were necessary to improve this motion.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much. I go now to the official opposition. Any questions on it?

Mr. Jim McDonell: No. We're fine.

The Chair (Mr. Garfield Dunlop): Okay, then we'll go to the third party, Jagmeet?

Mr. Jagmeet Singh: I reviewed this and I think it satisfies the concern about disclosure of the source of the funding. My only issue, and I ask both counsels to respond to this—and let's just get this right at the beginning for the record: Hartung?

Mr. Neil Hartung: That's right.

Mr. Jagmeet Singh: Got it.

Ms. Cindy Forster: I made him practise.

Mr. Jagmeet Singh: I did. I was reviewing Hansard and I think I called you all sorts of different names. Every time, I changed the counsel's name, so I felt bad.

Mr. Neil Hartung: As a bureaucrat, it's my duty to keep pace, so I'm quite happy with that.

Mr. Jagmeet Singh: I think I assisted you in your duties, then.

Could I ask both the legislative counsel and the ministry counsel their opinion on the use of the words "reasonably necessary"? I'm going to propose an amendment, if you agree with me, that I think "reasonably" weakens the word "necessary," and it opens it up to interpretation, and that just having "all information that is necessary to explain the sources" is stronger. Would you provide your input on whether "reasonably" weakens the term "necessary" and does it open up the opportunity to have a grey area where you have to assess what is reasonable and what is not? Mr. Wood, please.

Mr. Michael Wood: Very often in law, the standard is used of a "reasonable person." I'm not sure exactly whether there is a huge difference between "that is necessary" and "that is reasonably necessary," because I suspect—and Mr. Hartung, the ministry counsel, may want to confirm this or modify it—that a court would, if faced with interpreting the phrase "that is necessary," would take into consideration the circumstances and not view something as "necessary" if it wasn't "reasonable"

in the circumstances. So I don't see a huge amount of difference there, because, in law, the standard of a "reasonable person" is supposed to be a somewhat objective standard, anyway.

Mr. Jagmeet Singh: Mr. Hartung?

Mr. Neil Hartung: I agree with Mr. Wood. I would also note that the Collection Agencies Act has a registrar who's responsible for licensing matters. So the word "reasonable" allows that registrar to communicate to the licensees what is determined to be reasonable, whereas if it's an absolute standard like "necessary," I think you invite multiple interpretations of what truly is necessary. It's a grant, almost, of discretion to the person who administers the statute, who is the registrar, to say what they think is reasonable in the circumstances. It would be up to the licensee to try and oppose that in some fashion, likely through a hearing at the Licence Appeal Tribunal or through the imposition of terms and conditions.

Mr. Jagmeet Singh: Okay, I am satisfied with that. I don't think it's necessary to add an amendment, so I'm okay with moving to the next step. Those are all my comments. Thank you very much.

The Chair (Mr. Garfield Dunlop): Okay. Any questions, government members?

Mr. Vic Dhillon: No questions.

The Chair (Mr. Garfield Dunlop): Okay. Based on that, then, I'm going to call the vote on 0.3.0.1R. All those in favour of that amendment? That's carried.

Mr. Vic Dhillon: Chair?

The Chair (Mr. Garfield Dunlop): Yes?

Mr. Vic Dhillon: We'll be withdrawing the original. I believe the Clerk is aware of that.

The Chair (Mr. Garfield Dunlop): Okay. Thank you. So, at the bottom, then:

Shall schedule 1, section 4, as amended, carry? Carried.

That's the whole section. That's carried. We'll now go to schedule 1, section 9. The PC motion had been withdrawn.

Interjection.

The Clerk of the Committee (Mr. Trevor Day): We're on 0.8.

Ms. Cindy Forster: Of the package?

The Clerk of the Committee (Mr. Trevor Day): Of the package.

The Chair (Mr. Garfield Dunlop): Of the package, yes. It was stood down, though, wasn't it?

The Clerk of the Committee (Mr. Trevor Day): It was.

The Chair (Mr. Garfield Dunlop): It was stood down at the previous meeting, so we're going back to schedule 1, section 9. It's a PC motion.

The Clerk of the Committee (Mr. Trevor Day): It's 0.8.

The Chair (Mr. Garfield Dunlop): It's 0.8. Mr. McDonell, we understand this motion was dependent on an earlier motion that did not pass.

Mr. Jim McDonell: You're talking about schedule 1, section 9?

The Clerk of the Committee (Mr. Trevor Day): Yes.

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Jim McDonell: It was a housekeeping item, so it belonged to the other one, so we'll have to withdraw. The other one didn't pass.

The Chair (Mr. Garfield Dunlop): Okay, so you're withdrawing this?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): Okay. In that case, then, shall schedule 1, section 9, carry—as amended, carry? No, it's not amended, is it?

The Clerk of the Committee (Mr. Trevor Day): It was amended by—

The Chair (Mr. Garfield Dunlop): I'm sorry. It was amended by another motion.

Shall schedule 1, section 9, as amended, carry? Carried.

Okay. Thanks, everyone. Now we'll go back to the end of this. Shall schedule—

Mr. Jim McDonell: What number?

The Chair (Mr. Garfield Dunlop): The whole schedule, schedule 1.

Shall all of schedule 1, as amended, carry? Carried.

Okay. Thanks, everybody.

We're now going to schedule 2, section 4.

Mr. Jagmeet Singh: Which number is that?

The Chair (Mr. Garfield Dunlop): It's your motion, 0.11.1. I believe that was withdrawn before, Mr. Singh.

The Clerk of the Committee (Mr. Trevor Day): It was deferred, so it's on. Mr. Singh.

Mr. Jagmeet Singh: Yes.

The Chair (Mr. Garfield Dunlop): So, it's been deferred—

Interjection.

Mr. Jagmeet Singh: Sure. I'll move the motion.

The Chair (Mr. Garfield Dunlop): Okay.

Mr. Jagmeet Singh: I move that subsection 43(1) of the Consumer Protection Act, 2002, as set out in subsection 4(2) of schedule 2 to the bill, be struck out and the following substituted:

“Cancellation: cooling-off period

“(1) A consumer may, without any reason, cancel a direct agreement at any time from the date of entering into the agreement until,

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“(a) in the case of a direct agreement that requires the supplier to supply to the consumer a water heater or other goods or services that are prescribed, 20 days, or such other period as is prescribed, after,

“(i) the consumer has received the written copy of the agreement,

“(ii) the supplier has confirmed with the consumer, in accordance with the prescribed requirements, after entering into the agreement that the consumer has agreed to enter into the agreement, and

“(iii) the supplier has met all the requirements for entering into the agreement; or

“(b) in the case of all other direct agreements, 10 days after the consumer has received the written copy of the agreement.”

“Person doing confirmation

“(1.1) The person who contacts the consumer on behalf of the supplier for the purpose of making the confirmation described in clause (1)(a) shall not be the same person who enters into the agreement with the consumer on behalf of the supplier.

“No contacting the consumer

“(1.2) Except for making the confirmation described in clause (1)(a), a supplier that has entered into a direct agreement with the consumer shall not initiate any contact with the consumer during the period during which the consumer is entitled to cancel the agreement under subsection (1).”

The Chair (Mr. Garfield Dunlop): More time to explain that?

Mr. Jagmeet Singh: Sure. It sets out when the 20 days begin, so when the cooling-off period will commence, as well as a requirement that the individual or the person who signs the agreement can't be the same person who actually confirms the agreement, to add that extra level of consumer protection; and then a clause regarding the concern around a consumer who has made or entered into an agreement, that during the cooling-off period there shouldn't be any further soliciting that goes on during that period of time. There should be a cooling-off period that also precludes soliciting. Those are the components.

The Chair (Mr. Garfield Dunlop): Okay. We'll go to the government members. Any questions on it?

Mr. Vic Dhillon: This is a pretty reasonable motion. We tried to work with the ministry on the wording. We weren't able to come up with the appropriate wording. We somewhat agree with this, but we feel that this would be better dealt with through regulations.

The Chair (Mr. Garfield Dunlop): Okay. Any other questions from the government members?

Okay, the official opposition: Any questions on this?

Mr. Jim McDonell: You guys okay with it? Do it with a regulation.

The Chair (Mr. Garfield Dunlop): Okay. Further questions on this?

Mr. Vic Dhillon: Perhaps the ministry counsel may want to explain.

Mr. Neil Hartung: It does introduce some changes to how the cooling-off period generally works. The general rule for the cooling-off period is, once you receive a copy of the agreement, the cooling-off period starts. This amendment would say that the cooling-off period essentially doesn't start until the verification call is made, which potentially lengthens the period to an uncertain time frame. That was one of the things that we were struggling with: that you wouldn't be able to have that certainty as to when the cooling-off period actually begins and finishes. When disclosing to the consumer when they're going to receive this brand new rental in their house, they won't be able to say with any degree of certainty that it's going to be on the 25th or 26th, or it

might be on the 30th. For that reason, from sort of a practical, pragmatic perspective of how to implement this amendment, we ran out of time and out of the ability to solve this problem.

Mr. Vic Dhillon: Thank you.

The Chair (Mr. Garfield Dunlop): Mr. McDonell.

Mr. Jim McDonell: Yes, we have a problem with this because it allows the incumbent, I guess, to contact the consumer, but it doesn't allow the direct seller to contact the consumer. We think that's a bit of a disconnect. I think that if there are negotiations going on in the background, we don't believe that—like some of the other agreements we've seen by this government and agreed to, the incumbent shouldn't be allowed to take on aggressive resale tactics. But not to allow the original direct seller to be involved: We think that's a problem.

The Chair (Mr. Garfield Dunlop): Okay. Any further comments from anyone?

Those in favour of the amendment? Those opposed? That doesn't carry.

Mrs. Amrit Mangat: It carried?

The Chair (Mr. Garfield Dunlop): It doesn't carry.

We'll now go to the next motion. That's the PC motion. That's 0.13R, in that same area. Mr. McDonell.

Mr. Jim McDonell: I move that section 4 of schedule 2 to the bill be amended by adding the following subsection:

“(3) Section 43 of the act is amended by adding the following subsection:

“Previous supplier not to contact consumer

“(1.1) If a consumer enters into a direct agreement that requires the supplier to supply to the consumer a water heater or other goods or services that are prescribed, if the consumer has previously entered into another such agreement with another supplier and if the consumer or the consumer's duly authorized agent gives notice to that supplier to terminate that previous agreement and notifies that supplier that the consumer has entered into a direct agreement that is designed to replace the previous agreement, the supplier that receives the notice of termination shall not contact the consumer during the period described in clause (1)(a) with respect to the replacement agreement to attempt to have the consumer revoke the notice or enter into another such direct agreement with the supplier.”

We feel that this is a clearer motion, and it's really talking about contacting the customer when it's terminated.

The Chair (Mr. Garfield Dunlop): Okay. Any other comments, Mr. McDonell?

Mr. Jim McDonell: Not at this time.

The Chair (Mr. Garfield Dunlop): Any questions from the third party on this motion, this amendment? No questions?

Any questions from the government members?

Mr. Vic Dhillon: Just that we won't be supporting this because it hinders fair business practices. Our intention is to strike the right balance, so we will not be supporting this.

The Chair (Mr. Garfield Dunlop): Okay. Mr. McDonell?

Mr. Jim McDonell: The purpose of this is—we're talking about trying to promote competition. Some of the small suppliers—we're finding, or hearing about aggressive retention activities that really go against the ability for these direct sellers to actually make a sale. They're not allowed to contact, according to this legislation, during the 20-day period, so really, you're never going to see this competition take place that I think this bill is trying to do.

The Chair (Mr. Garfield Dunlop): Okay. Further questions from anyone?

Those in favour of Mr. McDonell's motion? Those opposed? You're opposed?

Mr. Jagmeet Singh: No, we're in favour.

The Chair (Mr. Garfield Dunlop): Okay, you're in favour.

Mr. Vic Dhillon: Chair?

The Chair (Mr. Garfield Dunlop): We had the hands go up in between here. Let me do this again: Those in favour of Mr. McDonell's motion?

Mr. Vic Dhillon: So you had—

The Chair (Mr. Garfield Dunlop): And those opposed? Everyone here.

Okay, I'll be supporting the motion in its original form, so it does not pass.

Mr. McDonell, on the next one, will you be withdrawing your previous motion?

Mr. Jim McDonell: The previous one?

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Jim McDonell: We replaced it.

The Chair (Mr. Garfield Dunlop): Okay. That's withdrawn.

Committee, shall schedule 2, section 4, carry? It's carried.

We'll now go to schedule 2, section 14.1. We have an NDP motion: Mr. Singh.

Mr. Jagmeet Singh: Thank you very much. Mr. Chair, I just want to clarify something with legislative counsel and yourself, and then we might be able to—

The Chair (Mr. Garfield Dunlop): Pardon me? I'm sorry.

Mr. Jagmeet Singh: I have to clarify something with legislative counsel and yourself, and we might be able to withdraw this motion—one sec.

The Chair (Mr. Garfield Dunlop): Okay.

So, Mr. Singh?

Mr. Jagmeet Singh: Yes. I'm just asking for a five-minute recess to clarify something, so it's not encumbering anyone in an awkward way.

The Chair (Mr. Garfield Dunlop): Okay. Can we agree to a five-minute recess, everyone?

Mr. Bas Balkissoon: Okay. Sure.

The Chair (Mr. Garfield Dunlop): Okay, a five-minute recess.

The committee recessed from 1231 to 1236.

The Chair (Mr. Garfield Dunlop): Okay, everyone. Thanks for that recess.

Mr. Singh, we're back to you again.

Mr. Jagmeet Singh: Thank you very much. On this motion, motion 14.1, I'm not moving this motion because there is another motion that deals with the same matter and it addresses the right section. So I'm not moving this 14.1.

The Chair (Mr. Garfield Dunlop): It's withdrawn. So we'll move now to schedule 2, section 5. We have a PC replacement motion, which is 0.15R. Mr. McDonell, go ahead, please.

Mr. Jim McDonell: I move that section 43.1 of the Consumer Protection Act, 2002, as set out in section 5 of schedule 2 to the bill, be struck out and the following substituted:

"Restriction on time for performance

"43.1(1) A supplier under a direct agreement that requires the supplier to supply a water heater to the consumer shall not supply the heater until the period described in clause 43(1)(a) has expired, unless,

"(a) the consumer has waived the right described in clause 43(1)(a), in writing, and the supplier has verified by a telephone call to the consumer that he or she consents to the heater being supplied before the period described in clause 43(1)(a) has expired; or

"(b) the prescribed circumstances exist.

"Effect of contravention

"(2) If a supplier supplies a water heater in contravention of subsection (1),

"(a) the consumer's right to cancel the direct agreement under clause 43(1)(a) is continued for 20 days after the contravention; and

"(b) if the consumer cancels under clause 43(1)(a) or under clause (a), the supplier,

"(i) shall remove the water heater without charge,

"(ii) shall refund any administration and installation costs charged under the cancelled agreement,

"(iii) shall pay any administration and installation costs incurred by the consumer in making a replacement agreement with another supplier, and

"(iv) shall not make any change to the consumer in connection with the cancelled agreement except a monthly rental charge prorated for the time from the date of installation of the heater to the date of the cancellation.

"Third-party charges

"(3) If a supplier supplies a water heater in contravention of subsection (1), the consumer exercises the right to cancel the direct agreement under clause 43(1)(a) or under clause (2)(a) and the consumer incurs charges from a third party that are related to the supplier's contravention, the supplier is liable to reimburse the consumer for the amount of those charges.

"Recovery of amount

"(4) The consumer may commence an action, in accordance with section 100, to recover the amount described in subsection (3) and may set off the amount against any amount owing to the supplier under any consumer agreement between the consumer and the supplier, other than the direct agreement described in subsection (1).

"Application to prescribed goods and services

"(5) Subsections (1) to (4) also apply, with necessary modifications, if the direct agreement requires the supplier to supply other goods or services that are prescribed."

The Chair (Mr. Garfield Dunlop): Any comments or explanations, Mr. McDonell?

Mr. Jim McDonell: Clause (a), the first one, just adds the waiver in there that allows that to happen. Clause (b) is just housekeeping. So if we install within the 20 days without consent, we're looking at extending that. For instance, if the heater gets installed on day 19, it doesn't give much left for the consumer to actually make his—if the cooling-off period only has one day left, there may not be time to actually fulfill that or follow through on it, so that just gives them more time for that to happen.

As we go down through it—just looking after the cost that the consumer pays, that he is reimbursed in full, so he's not out of pocket for any of these things.

If we go back to the end, the last part, it just allows the minister to designate other goods and special treatment. Right now, it only applies to hot water heaters.

The Chair (Mr. Garfield Dunlop): Questions from the third party?

Mr. Jagmeet Singh: Yes. I understand that this would allow—if I'm not mistaken—the consumer to waive the cooling-off period, and if it's done, in writing after a verified telephone call. I understand some of the rationale for that, and there has been some discussion around, "It allows consumers to have the choice."

I think, at the end of the day, though, the cooling-off period where there is no installation is important for consumer protection, and there have been consumer advocacy groups that have said that you shouldn't be able to waive that cooling-off period. For those reasons, we're not going to be able to support the amendment.

The Chair (Mr. Garfield Dunlop): Members of the government?

Mr. Vic Dhillon: We'll be voting against it because, again, this could be better dealt with in regulations.

The Chair (Mr. Garfield Dunlop): Any other questions from anyone? All those in favour of Mr. McDonell's amendment? Those opposed? That does not carry.

Mr. McDonell, we now go back to your original motion; we have it on the list here as well. Will you be withdrawing that?

Mr. Jim McDonell: We'll withdraw the old one.

The Chair (Mr. Garfield Dunlop): Okay. Withdrawn.

We'll now go to the NDP motion 0.15.1: Mr. Singh?

Mr. Jagmeet Singh: I move that subsection 43.1(3) of the Consumer Protection Act, 2002, as set out in section 5 of schedule 2 to the bill, be struck out and the following substituted:

"Third-party charges

"(3) If a supplier supplies good or services to a consumer in contravention of subsection (1) and the consumer incurs charges from a third party that are related to the supplier's contravention, including, but not limited to, the removal or return of any goods that the consumer is liable to return to the third party, the supplier is liable to

reimburse the consumer for the amount of all those charges.”

The Chair (Mr. Garfield Dunlop): Any more explanation you’d like on that?

Mr. Jagmeet Singh: Yes. It just provides some protection to the consumer if a supplier contravenes subsection 1. So if the supplier violates this code, there’s a remedy suggested. The remedy is that the supplier would have to return the consumer to their whole condition, so basically put them back in the position that they were in before.

It just adds an extra layer of protection, specifically with third-party charges. If the agreement is with another individual but there are some ancillary charges, some other charges that are also a part of that, those third-party charges are also covered by the person who contravenes the act. If you violate the act, you have to return the person to their whole condition, including any other charges that may have flowed from it.

The Chair (Mr. Garfield Dunlop): Members of the government?

Mr. Vic Dhillon: Chair, again, a fairly good motion, but we’ll be voting—

Interjection.

Mr. Vic Dhillon: Okay. I’ll continue. It’s a fairly good motion that we will support.

The Chair (Mr. Garfield Dunlop): You’ll support? That’s good. I’m glad you’ve got staffers here.

Any comments?

Mr. Jim McDonell: No.

The Chair (Mr. Garfield Dunlop): Okay. In that case, all those in favour of Mr. Singh’s amendment? That’s carried.

The next item is government motion 0.15.1.1: Go ahead, Mr. Dhillon.

Mr. Vic Dhillon: We’ll be withdrawing this motion.

The Chair (Mr. Garfield Dunlop): This is being withdrawn, 0.15.1.1?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Garfield Dunlop): Withdrawn.

That takes us to: Shall schedule 2, section 5, as amended, carry? That’s carried.

Schedule 2, section 5.1—it’s a new section. It’s a PC motion.

Mr. Toby Barrett: It’s found on page 0.16: schedule 2, section 5.1 of the bill.

I move that schedule 2 to the bill be amended by adding the following section:

“5.1 The act is amended by adding the following section:

“Application to other kinds of consumer agreements re water heaters etc.

“43.2(1) Sections 42.1, 42.2, 43 and 43.1 also apply, with necessary modifications, to all consumer agreements that,

“(a) require the supplier to supply to the consumer a water heater or other goods and services that are prescribed; and

“(b) are Internet agreements, remote agreements or any other kinds of agreements that are not direct agreements.

“Conflict

“(2) In the event of conflict between subsection (1) and sections 37 to 40 (Internet agreements), subsection (1) prevails.

“Same

“(3) In the event of conflict between subsection (1) and sections 44 to 47 (remote agreements), subsection (1) prevails.”

The Chair (Mr. Garfield Dunlop): Mr. Barrett, we have to rule this out of order. It’s outside the scope of the intention of the bill.

We’ll now go to schedule 2, section—

Mr. Jim McDonell: Chair?

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Jim McDonell: Just a comment on it. We can’t comment on it?

The Chair (Mr. Garfield Dunlop): We’ve ruled it out of order, yes.

Mr. Jim McDonell: Because we just find it’s a gaping hole. You’re ruling out everything but a direct agreement. You have Internet; you get calls. There’s no interest in fixing up the—

Mr. Jagmeet Singh: A question: Is there a way to ask for unanimous consent to open up this section?

The Clerk of the Committee (Mr. Trevor Day): With unanimous consent, the committee can consider a motion ruled out of order.

Mr. Bas Balkissoon: Nobody has had time to look at this in depth.

Mr. Jim McDonell: But does it really matter how people are first contacted? The agreement should apply. Internet agreement or direct mail—

The Chair (Mr. Garfield Dunlop): So are you seeking unanimous consent for us to—

Mr. Jim McDonell: Yes, seeking unanimous.

The Chair (Mr. Garfield Dunlop): So I’m asking for unanimous consent so he can discuss this—for the committee to consider this motion.

Mr. Jagmeet Singh: Mr. Chair, some questions on that: Can he provide reasons? I’m going to ask for something quite similar. This overlaps with something that I’m going to be asking for later on.

The Clerk of the Committee (Mr. Trevor Day): Unanimous consent first. If he gets it, he moves it and we move on.

Mr. Jagmeet Singh: So to get the unanimous consent, can you make an argument for why there should be unanimous consent on this issue, just to say, “This is what we’re looking for” and then ask for—

The Clerk of the Committee (Mr. Trevor Day): Members aren’t permitted to debate a ruling of the Chair. You are open to ask for unanimous consent to get the committee to consider it anyway, but that’s—

Mr. Jagmeet Singh: I see.

Mr. Jim McDonell: So I can ask for unanimous consent that we review this amendment?

The Chair (Mr. Garfield Dunlop): Is there unanimous consent that we review this at all? I'm not getting unanimous consent; no. We'll move on to the next motion.

Schedule 2, section 5.1, and that is an NDP motion. That's 0.16.1.

Mr. Jagmeet Singh: Before I move this motion—because once I move it, then the Chair will be required to rule it out of order—

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Jagmeet Singh: Before I move this motion—because once I move it, it will be ruled out of order, so I'm not moving it yet. Just as a friendly discussion with my fellow colleagues here as MPPs, there's a motion that we may discuss, in a couple of seconds, that talks about opening up the protection provided by this bill, which is for direct agreements, and there's a defined remote agreement. Remote agreements are basically anything but direct agreements, so it could be telephone—I understand it should apply to Internet as well.

Remote agreements are basically not direct agreements. Direct agreements are door-to-door. My argument is going to be that we should provide the same protections that we provide to people door-to-door to people who are reached through the telephone or reached through other means that are remote. The “remote agreement” definition is included in the act.

Before I move it, one last comment: Would both counsels agree that this would only apply to the water heater situation? Is that correct, that the remote agreement—

Mr. Bas Balkissoon: Chair, you can't do that.

The Chair (Mr. Garfield Dunlop): We don't have an amendment on the floor. So why don't you make the amendment and we'll ask each of them to make a comment. Okay?

Mr. Jagmeet Singh: As soon as I make the amendment, it can be ruled out of order. Then I won't be able to discuss this. So if I just could ask a quick question and then I'll move ahead as you like, Mr. Chair.

Would you agree with that comment, Mr. Wood, that this would apply to water heaters?

Mr. Michael Wood: Am I allowed to answer?

The Chair (Mr. Garfield Dunlop): He's not allowed to answer. There's no motion to comment on.

So you can go ahead, if you want; I am going to probably rule it out of order, though.

Mr. Jagmeet Singh: I'm sure I get some points for creativity, though.

In light of the circumstances, would I be able to ask for a very brief recess of two minutes, just to ask a question so that I could make a submission?

The Chair (Mr. Garfield Dunlop): If it's agreed, everybody?

Mr. Bas Balkissoon: Two minutes? Sure.

The Chair (Mr. Garfield Dunlop): Two-minute recess, fine.

The committee recessed from 1250 to 1255.

The Chair (Mr. Garfield Dunlop): The recess time is up. I'll go back to Mr. Singh again.

Mr. Jagmeet Singh: That was very helpful. Thank you so much. I'm just going to move it. It will be ruled out of order, and that's okay. We'll just leave it at that.

The Chair (Mr. Garfield Dunlop): So it's withdrawn at this point?

Mr. Jagmeet Singh: I'm just going to read it out and it will be ruled out of order. I'm not going to ask for unanimous consent.

I move that schedule 2 to the bill be amended by adding the following section:

“(5.1) Subsection 47(1) of the act is repealed and the following substituted:

“Cancellation of remote agreement

“(1) A consumer may cancel a remote agreement at any time from the date the agreement is entered into until 20 days after the consumer receives a copy of the agreement.”

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Singh. I'm going to rule it out of order because section 47(1) of the bill is not open.

We'll now go to schedule 2.

Mr. Bas Balkissoon: Thank you, Chair.

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Bas Balkissoon: Thank you.

The Chair (Mr. Garfield Dunlop): We'll now go to schedule 2, section 6. Shall schedule 2, section 6, carry? It's carried.

Shall schedule 2, section 7, carry? Carried.

Finally, shall schedule 2, as amended, carry?

Mr. Jim McDonell: Can we have a recorded vote on that?

The Chair (Mr. Garfield Dunlop): On this one?

Mr. Jim McDonell: Yes.

The Chair (Mr. Garfield Dunlop): Okay. A recorded vote has been asked for. On this one, we're asking for a recorded vote.

Ayes

Balkissoon, Dhillon, Mangat, Qaadri.

Nays

Barrett, McDonell.

The Chair (Mr. Garfield Dunlop): The schedule carries, as amended.

Schedule 3—we've got a number of amendments here. Amendment 0.17 by the PCs: Mr. McDonell.

Mr. Jim McDonell: We'll be withdrawing our existing one. We have a revised one in. Do we want to just read the revision?

The Clerk of the Committee (Mr. Trevor Day): Do the revised one.

Mr. Jim McDonell: I move that subsection 35.1(3) of the Real Estate and Business Brokers Act, 2002, as set out in section 1 of schedule 3 to the bill, be struck out and the following substituted:

“Request for inquiry by registrar

“(3) A person or a registrant acting on behalf of a person may request that the registrar make an inquiry to

determine the number of written offers that the brokerage acting for a seller has received to purchase real estate.”

The idea around this is that the potential purchaser would be able to ask about offers before he actually made a binding offer.

The Chair (Mr. Garfield Dunlop): Any questions from the third party on this?

Mr. Jagmeet Singh: My concern is that I think we’re contemplating—OREA requested that we have an amendment so that they don’t require that brokers or brokerages hold on to offers, because there are certain issues around holding on to offers. They can keep track of the offers or another document, as prescribed, and we’re contemplating an amendment for that. In the case of if the brokerage doesn’t have the actual offer, but has another document, how would they be able to then fulfill this inquiry? If they don’t actually have the offer but they have the other document, would that still satisfy the inquiry? Because they don’t have a number of written offers. They may have a number of other written documents.

The Chair (Mr. Garfield Dunlop): Please feel free to respond to that.

Mr. Jim McDonell: There’s a good chance that we may amend this bill. I think there’s a common interest to make sure that any amendments to offers or any counter-offers are made in a simpler form. This would apply to those as well.

1300

We wanted to have it so that somebody can request to know if there are any official offers on a property. Right now, I believe the way the legislation is written, they have to make an offer before they can actually inquire. We’re just making it so they could actually inquire if there are offers before they make a binding offer. I think that’s kind of the practice today, but this is a problem. By putting this in legislation, it just allows them to do that.

The Chair (Mr. Garfield Dunlop): Members of the government?

Mr. Vic Dhillon: Chair, we will not be supporting this.

The Chair (Mr. Garfield Dunlop): Okay. Any other comments from anyone on Mr. McDonell’s amendment? Those in favour of the amendment?

Mr. Jim McDonell: Recorded vote, please.

The Chair (Mr. Garfield Dunlop): Recorded vote.

Ayes

Barrett, Forster, McDonell, Singh.

Nays

Balkissoon, Dhillon, Mangat, Qaadri.

The Chair (Mr. Garfield Dunlop): Okay, so that won’t carry. It changes the format. That one is lost.

The NDP motion is next: 0.17.1.

Mr. Jagmeet Singh: Thank you very much, Mr. Chair. Can I just confirm that the government is moving a motion that addresses this same issue?

Mr. Vic Dhillon: Yes.

Mr. Jagmeet Singh: We’re happy with the wording that the government is going to be proposing, so we don’t need to move our motion, then.

The Chair (Mr. Garfield Dunlop): Withdrawn?

Mr. Jagmeet Singh: Yes, I’m not moving it.

The Chair (Mr. Garfield Dunlop): Okay. Government motion number 1.

Mr. Vic Dhillon: I move that clause 35.1(4)(b) of the Real Estate and Business Brokers Act, 2002, as set out in section 1 of schedule 3 to the bill, be struck out and the following substituted:

“(b) at the request of the registrar, provide the registrar with copies of the written offers or other documents that it is required to retain under subsection (2).”

The Chair (Mr. Garfield Dunlop): Would you like any time to explain that?

Mr. Vic Dhillon: This is supported by OREA. As Mr. Singh stated, this is, I think, worded a bit better and clarifies the issues around it.

Mr. Jagmeet Singh: I just want to be able to read it—sorry, so—

The Chair (Mr. Garfield Dunlop): Hold on.

The Clerk of the Committee (Mr. Trevor Day): Are you reading number 2 or number 1?

Mr. Vic Dhillon: I’m reading number 2. I don’t have number 1. Oh, yes, I do have number 1. It doesn’t state “government motion.”

Actually, Chair, I—

The Chair (Mr. Garfield Dunlop): It’s government motion number 1.

Mr. Bas Balkissoon: Yes, it’s not written as “government motion.”

Mr. Vic Dhillon: There’s no indication—

Mr. Bas Balkissoon: That’s why he read the wrong one.

Mr. Vic Dhillon: Yes.

The Chair (Mr. Garfield Dunlop): Oh, I apologize. We’ll do that again, okay?

Mr. Jagmeet Singh: Yes, because it wasn’t what I was looking at.

The Chair (Mr. Garfield Dunlop): I want him to re-read that one in.

Mr. Vic Dhillon: I will, Chair.

In the notes that we got, motion number 1 doesn’t indicate which party this comes from—

The Chair (Mr. Garfield Dunlop): Yes, you’re right.

Mr. Vic Dhillon: —so I apologize.

The Chair (Mr. Garfield Dunlop): That’s our fault, too. Let’s do number 1 again.

Mr. Vic Dhillon: That’s fine. I move that subsection 35.1(2) of the Real Estate and Business Brokers Act, 2002, as set out in section 1 of schedule 3 to the bill, be amended by adding “or copies of all other prescribed documents related to those offers” after “real estate”.

The Chair (Mr. Garfield Dunlop): Okay. Any further explanation on government motion 1?

Mr. Vic Dhillon: Again, it’s the same as I explained before, Chair.

The Chair (Mr. Garfield Dunlop): Okay. Mr. McDonnell? Any questions from the official opposition?

Mr. Jim McDonnell: No.

Mr. Jagmeet Singh: Why was it broken up over two motions, 1 and 2, versus keeping it all in 2?

Mr. Bas Balkissoon: They're different clauses.

Mr. Vic Dhillon: Yes. Could legislative counsel explain?

Mr. Michael Wood: There are two government motions involved here. One affects subsection 35.1(2) of the Real Estate and Business Brokers Act. The second motion affects section 35.1(4), which actually is identical to an NDP motion that follows it. The NDP motion is labelled 2.1, and that seems to be identical to government motion 2.

Mr. Bas Balkissoon: But 1 and 2 are different.

The Chair (Mr. Garfield Dunlop): They're somewhat different, and number 2 resembles yours, Mr. Singh.

Any questions, then, on government motion 1? Those in favour of it? That's carried.

Okay, government motion 2: Mr. Dhillon?

Mr. Vic Dhillon: Sure.

The Chair (Mr. Garfield Dunlop): I know you've read it once before, but do it again, and we'll just make sure it's okay for them.

Mr. Vic Dhillon: Not a problem.

I move that clause 35.1(4)(b) of the Real Estate and Business Brokers Act, 2002, as set out in section 1 of schedule 3 to the bill, be struck out and the following substituted:

“(b) at the request of the registrar, provide the registrar with copies of the written offers or other documents that it is required to retain under subsection (2).”

The Chair (Mr. Garfield Dunlop): Okay. We've heard your explanation. Would you like to explain any more on that?

Mr. Vic Dhillon: I explained that—

The Chair (Mr. Garfield Dunlop): Okay. Any questions from the official opposition on this? Or from Mr. Singh?

Mr. Jagmeet Singh: No, thank you.

The Chair (Mr. Garfield Dunlop): Okay. All those in favour of that? That's carried.

We'll now go to 2.1, the NDP motion.

Mr. Jagmeet Singh: I'll withdraw that.

The Chair (Mr. Garfield Dunlop): It's identical and it's out of order.

Mr. Jagmeet Singh: It is identical to the previous one.

The Chair (Mr. Garfield Dunlop): Thank you. Okay, then. Shall schedule 3, section 1, as amended, carry? Carried.

Schedule 3, section 2: Shall schedule 3, section 2, carry? Carried.

Schedule 3, section 3: Shall schedule 3, section 3, carry? Carried.

Shall schedule 3, as amended, carry? Carried.

Okay. We stood down sections 1, 2 and 3, so we've got to go back to those for a moment and make sure they all get passed properly here.

Shall sections 1 to 3 carry? Carried. All right.

Shall the title of the bill carry? Carried.

Shall Bill 55, as amended, carry? Carried.

Shall I report the bill, as amended, to the House?

Mr. Toby Barrett: Chair, just a comment before we report: I know that a number of amendments were not passed, or were not felt worthy of being incorporated within the actual legislation. At least one amendment that was passed was felt to be already in regulation, not legislation, although it did become legislation courtesy of this committee. I think it was the credit counselling debt consolidation amendment, I guess, of the last week, where a credit counsellor has to maintain money in Ontario that they receive.

This difference between legislation and regulation—I know this committee has done a lot of work on these amendments. The only thing I would offer up is if any of these amendments were felt worthy by staff to be reviewed or to be considered as regulation down the road, I'd just like to offer that up, if the committee felt that was appropriate.

Some of these amendments obviously weren't appropriate for this legislation by the decision of this committee, but if they have any merit at all, if the bureaucrats could consider them down the road as possible regulation. We have no real say in that, unless there are going to be hearings on the regulation. But I just wanted to throw that out. I don't know whether I would ask the committee to comment on that—

The Chair (Mr. Garfield Dunlop): Well, thank you for your advice on it. You're asking for them to consider it, and we appreciate your advice.

Mr. Toby Barrett: I guess my—

Interjection.

Mr. Toby Barrett: I'm sorry?

Mr. Bas Balkissoon: Staff are all here, and they're listening.

Mr. Toby Barrett: Okay. I guess that's maybe good enough for me, is it?

The Chair (Mr. Garfield Dunlop): I guess so.

Mr. Toby Barrett: We don't need a motion or anything?

Laughter.

The Chair (Mr. Garfield Dunlop): Shall I report the bill, as amended, to the House? Carried.

We are back here next week—at what time?

The Clerk of the Committee (Mr. Trevor Day): Twelve noon.

The Chair (Mr. Garfield Dunlop): Twelve noon for Bill 49.

Thank you very much, everybody, for your time. We're adjourned.

The committee adjourned at 1309.

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Mercredi 27 novembre 2013

Standing Committee on the Legislative Assembly

Protecting Employees'
Tips Act, 2013

Comité permanent de l'Assemblée législative

Loi de 2013 sur la protection
du pourboire des employés



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 27 November 2013

Mercredi 27 novembre 2013

*The committee met at 1204 in committee room 1.*PROTECTING EMPLOYEES'
TIPS ACT, 2013LOI DE 2013 SUR LA PROTECTION
DU POURBOIRE DES EMPLOYÉS

Consideration of the following bill:

Bill 49, An Act to amend the Employment Standards Act, 2000 with respect to tips and other gratuities / Projet de loi 49, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les pourboires et autres gratifications.

The Vice-Chair (Ms. Lisa MacLeod): Good afternoon, everyone. Lisa MacLeod is my name. I am the Vice-Chair of the committee. Mr. Dunlop will be out for the next hour.

My colleagues from the House have just arrived. To the members of the audience, I do apologize, but they have just broken from a vote. They will be having their lunch during the break, so please excuse that.

Each deputant is able to have a five-minute statement, and each political party will have three minutes to question them.

MR. BRUCE KATKIN

The Vice-Chair (Ms. Lisa MacLeod): Our first presenter, beginning at 12:05, is Bruce Katkin. Is Bruce here? Please come. You have five minutes to make your deposition, time starting now.

Mr. Bruce Katkin: Thank you, members of the committee. My name is Bruce Katkin. I have been in the restaurant industry since 1979, mainly in a management function. I am here to support Bill 49 for the following reasons.

Serving staff in restaurants, service employees in the accommodation sector and staff in the banquet sector rely mainly on the minimum wage or close to the minimum wage of \$8.75 an hour, the exception being in certain situations, such as unionized locations, where the practice of tip distribution is built into the contract.

Serving can be very stressful and sometimes comes with berating by customers.

Customers usually leave tips based on their satisfaction with the service and product, and customers leave the tip with the understanding that the employees receive the full amount.

As a manager or owner, it is part of the job description that they step in where and when it is needed. Some people are saying, "Well, a small business owner should be advantaged." Define a small business owner. An owner of a franchise is a small business owner. Many have stated that if the owner is working, such as a chef, they should be entitled to the same tips as the staff. There are two thoughts on this. One is, yes, because they are working as an employee or as a chef, they should get similar tips. The other one would be no, because as owners, they have a fixed salary, usually higher than what the employees are making; they have the profits of the business; and they have tax advantages, such as car expenses or any other expenses they want to write off.

The customer is not aware that in many instances, management and/or owners take a part of the tip under the following reasons or guises: dish breakage; covering the cost of credit card charges—now, I agree that business owners should be able to take the tip portion. In other words, if a \$100 bill has a \$20 tip on it, the business owner—let's say at 3%—should get 60 cents, but most of them are asking for \$3, \$4 or \$5, the amount of the whole credit card bill; uniform charges—many locations charge more than the actual cost of a uniform, making themselves a profit on the side. They use it to supplement the manager's wages so as to lower management costs. Some of them go under the guise of saving for a staff party or such event, yet the full amount of the money is not available when it comes time for that party. Some have been so blatant as to say that they need the money to help run the business. If that is the case, maybe the business should be closed or they should have outside management come in and run it properly.

I'll give you a couple of examples. In 2001, I was down here reorganizing a Denny's restaurant with the potential of buying it. After four weeks, I involved myself in the distribution of tip-outs to the back-of-the-house staff. This worked out to \$1.05 an hour for each employee working in the back of the house and the hostess staff. Staff commented that I must have made a mistake as they normally receive only 40 cents an hour. Two cycles later, when I was out of town, tips to the staff went back down to 40 cents an hour. It became clear that the manager, unbeknownst to the owner, was putting money into her pocket.

That being said, the owner insisted that 30% of the tip money be kept on the side for dish breakage. It's not the

employee's business to worry about dish breakage. They don't drop them; it's not their money to replace them.

When I owned a franchise and when I ran restaurants, I ensured the employees got the full amount of money anytime they asked what the total tip-outs were, and they could figure it out for themselves. They were told what the distribution of the money was to each employee.

As an owner and as a manager, many times I've had to step in and do dishes or help serve tables. I never took money as part of the tip-out or money from the serving staff. As management, that's my job: to help out as needed to run the business properly.

The majority of chains—there's one major Canadian chain that charges 2.5% tip-out to their employees. I've talked to three or four employees. They're pretty sure all the money goes to the staff, except they aren't 100%. There's another chain where I've talked to servers at three locations only, but they all say the same thing: It's a 5% tip-out they're advised to give, and this chain does more than \$60,000 a week per unit. So you're looking at \$3,000 a week being accumulated for tip-out, and they know that the staff are not getting all the money.

I've added a letter in the package, and I'm just going to quickly go over it. This is a letter from a former employee of mine at East Side Mario's. When I sold the business, the new owner started taking the tip money from the employees. Basically, it says, "When Ramon took charge of this task, we went from getting approximately \$1.15 ... per hour to approximately six cents per hour." Now, we know this owner was buying a plasma TV for the store on the backs of the employees. He was using it to basically fund his restaurant.

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The Vice-Chair (Ms. Lisa MacLeod): Thank you very much, Mr. Katkin. That was your five minutes. I do apologize. We do have a lot of presenters.

Mr. Bruce Katkin: Okay. No problem.

The Vice-Chair (Ms. Lisa MacLeod): We will start questioning off with three minutes for MPP Toby Barrett from the PC Party.

Mr. Toby Barrett: Is that three minutes per party?

The Vice-Chair (Ms. Lisa MacLeod): Yes.

Mr. Toby Barrett: Thank you for your presentation. I'm just trying to get up to speed here. You indicated that tips should not be used to supplement a manager's wages. I'm just thinking that, in the restaurant trade, the tips are obviously used to supplement servers' wages. They're ideally shared with kitchen staff.

Mr. Bruce Katkin: Right.

Mr. Toby Barrett: So, they're used to supplement kitchen staff wages, wages that in many cases are below the minimum wage.

Mr. Bruce Katkin: No. In most cases I've seen, kitchen staff are above minimum wage. In the restaurant that I owned, and one of the restaurants that I managed with full service, the kitchen staff were about \$1.80 to \$2.75 above minimum wage.

Mr. Toby Barrett: Okay. Is that in the city? I'm out in a rural area.

Mr. Bruce Katkin: Oh, sorry. One was in the GTA and one was in Ottawa.

Mr. Toby Barrett: This is with a chain?

Mr. Bruce Katkin: One was independent. One was with a chain.

Mr. Toby Barrett: I guess I'm under the impression that many people in the restaurant trade—it's legal—work below minimum wage, and they're supposed to make up the money with tips, which doesn't—

Mr. Bruce Katkin: Well, "below minimum wage"—\$8.75 is the minimum wage for serving, so we can't say it's below minimum wage. That's the legal minimum wage for serving.

Mr. Toby Barrett: Yes. Minimum wage is what, \$10.25?

Mr. Bruce Katkin: It's \$10.25.

Mr. Toby Barrett: And we've got this double standard where in certain jobs you make below \$10.25.

Mr. Bruce Katkin: That's right.

Mr. Toby Barrett: I don't know whether that's a good idea or not. I guess I don't know whether using tips to supplement that is appropriate or not.

Mr. Bruce Katkin: I know that other provinces run the same way. Serving staff in licensed establishments make less money than non-licensed establishments.

Mr. Toby Barrett: Yes. Again, I represent a rural area. I think of a number of very small restaurants. For example, a lady opens a restaurant and hires part-time staff, but she does the cooking. Should she get some of the tip money?

Mr. Bruce Katkin: But she also has the tax advantage of getting all the profits from the restaurant. She can write off her car on the restaurant. There are two schools of thought. She can either get it or not, but if I, as the owner or manager of a business, am making \$30,000, \$40,000 or \$50,000 and I'm writing off my car and my gas expenses, I don't think the employees should have to supplement that.

Mr. Toby Barrett: Okay, then.

The Vice-Chair (Ms. Lisa MacLeod): Thanks very much. Mr. Prue?

Mr. Michael Prue: I have a couple of questions, and I admire your expertise here in terms of actually running the businesses. Can you tell us, in your opinion, what percentage of restaurant owners are taking a portion or a tip-out from their employees? Could you give us a guesstimate of how widespread this is?

Mr. Bruce Katkin: I would say at least 50%, and when we say owners of restaurants, we're talking about owners of franchises, also. The franchisor has no control over it legally, because it's an independent business, but I would say at least 50%.

Mr. Michael Prue: Now, there seems to be some confusion out there. I read the letter from CFIB talking about how it's normal and natural to share tips with other staff. My bill doesn't say anything about that.

Mr. Bruce Katkin: Well—

Mr. Michael Prue: Okay. Is there confusion, in your opinion, in the restaurant industry about the difference between a tip-out and tip-sharing?

Mr. Bruce Katkin: Yes. I think the idea is that the serving staff pool their tips, and then it's redistributed to the people like the back of house and the hostesses. That's what we call tip-out and tip-sharing. The management shouldn't be accessing any of that.

Mr. Michael Prue: All right. So you don't have any objection whatsoever to a bill that would stop the owner taking a tip as a percentage in order to pad their profits?

Mr. Bruce Katkin: Not a problem.

Mr. Michael Prue: This has already been done in New Brunswick, Prince Edward Island, New York state and many other places. Do you have any information about whether that has harmed the restaurant industries in those places?

Mr. Bruce Katkin: In the package that I distributed, there is a printout of the law from the Quebec province, where it specifically says management cannot touch employees' tips, and if the employees want to have tip-sharing, it's voluntary within the group at the beginning and then, if it's accepted, everybody who is hired is on the condition that they tip out.

And I put in the forms a form they can fill out and everything else to make everything legal.

Mr. Michael Prue: Okay, but in Quebec they will not allow the management or the owners—

Mr. Bruce Katkin: No. That's written in the law.

Mr. Michael Prue: Okay.

The Vice-Chair (Ms. Lisa MacLeod): You have one minute left.

Mr. Michael Prue: I have one minute. Okay.

You have a franchise in Ottawa and one here in the GTA. The employees in those places: What is their general reaction to this? Do they think that they should be allowed to keep their tips?

Mr. Bruce Katkin: Well, all the ones that I've talked to—I've walked into different restaurants, eaten in them and asked employees questions, and they all say the same thing: that the management has no business having the tips. The tips are for—they are doing it for their own staff, their own back of house. In the letter that I've added, the gentleman who made the complaint, when they decided they weren't going to tip out anymore so the owner couldn't get the money, he threatened them with lawsuits and firing them. That was the reaction they got.

Mr. Michael Prue: I thank you, then.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much, Mr. Prue. MPP Dhillon?

Mr. Vic Dhillon: Thank you. Thank you very much for appearing before the committee. I don't know if you remember me.

Mr. Bruce Katkin: Sure. I remember you very well.

Mr. Vic Dhillon: I remember you. I've been to the East Side Mario's that you're referring to a few times, and it's really sad that the new owner was in this sort of practice, if in fact he was.

Can you tell the committee how prevalent this sort of problem is, and if you can identify which types of restaurants it is more prevalent in, whether in the sort of privately owned or the franchised ones? And what

support—does the franchise head office care about this? Do they give a heck as to what's happening in each one of their franchised restaurants?

Mr. Bruce Katkin: I think it's prevalent in both independent and chain restaurants. Chain restaurants, by design, probably have more in sales than some of the independent restaurants. But as a franchise, the owner, the head office, yes, are aware of it. I have in some cases known where the head office has been aware of it and they are very worried about it, but legally they have no standing to stop it because it is an individual business, his own corporation, and since it's not protected by the labour code, they basically can do whatever they want. The only way the head office can step in is if he's violating the franchise agreement through some other thing. Otherwise, they can't step in, and, yes, they are kind of worried because they lose good staff. Their reputation is ruined because people are going around saying, "Oh, don't get hired by such and such a company at that place because they take all your tip money."

Mr. Vic Dhillon: So you're very supportive of this and feel that this would help?

Mr. Bruce Katkin: I'm supportive of this bill. I'm not against owners making their money, but they shouldn't be making it on the backs of the employees.

Mr. Vic Dhillon: Thank you.

The Vice-Chair (Ms. Lisa MacLeod): You have a minute left. Anybody else?

Mr. Vic Dhillon: That's fine.

The Vice-Chair (Ms. Lisa MacLeod): Okay. Thank you very much, Mr. Katkin. It's very generous of you to come here today to join us at our committee. Thank you for your deputation.

CANADIAN RESTAURANT AND FOODSERVICES ASSOCIATION

The Vice-Chair (Ms. Lisa MacLeod): I'd like to now call on the Canadian Restaurant and Foodservices Association: James Rilett, vice-president. Mr. Rilett, you will have five minutes to state your case, and each political party, starting with the New Democrats, will have a three-minute opportunity to pose questions. Could you please identify yourself, and you're welcome to start.

Mr. James Rilett: Excellent, thanks. My name is James Rilett. I'm the vice-president, Ontario, of the Canadian Restaurant and Foodservices Association. I want to thank the Clerk's office and the committee members for allowing me to present today.

As a preamble to my presentation, I'd just like to make a couple of statements about the industry.

Our industry is a \$25-billion hit to the Ontario economy. We employ 425,000 people directly and 90,000 indirectly.

One of the unfortunate consequences of this bill is the negative impression the debate has left about restaurant owners and operators. We think that's unfortunate, to lump everybody in the same boat. Restaurant owners are hard-working, they are community-minded, and they

work in the industry for the love of what they do. Profit margins hover around 3%, so no one goes into this industry thinking they're going to get rich. There are many cases where the employees are making more than the owners. So I just want to start out by saying that the negative impression of owners is an unfortunate by-product of this debate.

The government is continually adding more layers of regulation and bureaucracy onto the complicated web of concerns that the owners face daily. It's with this in mind that we first approached this bill. We understand it's well intentioned, but it just adds another layer of complexity.

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So what we'd like to do is raise three areas we think could improve the legislation, if it's passed, and lessen the possible unintended consequences of the bill. We'd like to make sure the definition of "employer" that is used—that they use the Ministry of Labour definition, so that people who are acting as shift managers—staff that happen to be managers are usually staff that are shift managers—aren't unfortunately brought into this legislation. The problem with that is, is if that's the case, then you'll have many staff not wanting to become shift—

Interjection.

Mr. James Rilett: I'm sorry?

The Vice-Chair (Ms. Lisa MacLeod): Keep going.

Mr. James Rilett: We want to make sure that there's still the ability to use a tip-sharing pool to split tips among staff members. We just want that clarified, that those pools are still allowed. We do think it's important that owners who work as dishwashers, work as serving staff, work as cooks, are still able to share in the tips, if applicable. Many don't, but there are some—I'm sure you can look at any street in rural Ontario or downtown Toronto. They have two or three family members who are running the restaurant, and if they then have to share the tips with the single person who's not, then it puts a big dent into what they make in a day.

So, basically, we think this bill can be improved. We want to be careful of the unintended consequences, and we hope we can improve this bill before it's passed.

The Vice-Chair (Ms. Lisa MacLeod): Are you finished?

Mr. James Rilett: Thank you.

The Vice-Chair (Ms. Lisa MacLeod): Okay. Thank you very much. We will now start questioning with our wonderful colleague Mr. Prue. Mr. Prue, you have three minutes.

Mr. Michael Prue: Yes, I have a couple of, first of all, statements. You say that you're worried about the government layering bureaucracy. The bill is one line long. It says that no employer may take any portion of an employee's tips or gratuities. What bureaucracy do you think is going to come out of this?

Mr. James Rilett: It is one line long, and because it's so simplistic, what they often worry about is, what are the unintended consequences? What if an employee—what are all the unintended consequences that could go into this? What about tip pools? What about other things?

We just don't want to have to—businesses are structured in a myriad of different ways, and if a one-line bill is interpreted in different ways, they might have to totally restructure how they do their business.

Mr. Michael Prue: Well, statements have been made in the Legislature by me and, in fact, by all parties that this is not intended in any way to stop tip-pooling or sharing. Statements have also been made about who the employer is, because it's under the Employment Standards Act, the same definition, which you've asked for. Seeing that your two criteria have been met, what other objections could you possibly have?

Mr. James Rilett: I didn't say we were objecting. I was saying that we want those put into the legislation so that it's clear, so that there aren't—I know you say people have said in statements in the House and publicly that those are the intentions, but legislation and intentions are often not the same thing. So we would request that they be put in the legislation so that it's clear.

Mr. Michael Prue: Okay. That's fair enough. You said that this bill was putting employers in the same boat. You heard the previous deputation, I trust, say that in his estimate, and this is my own estimate, too—I think it's even maybe a little higher—more than 50% of the restaurateurs are taking the tips from their employees, or a percentage of their tips. I'm just wondering, do you agree that that's happening out there?

Mr. James Rilett: I blatantly disagree with that.

Mr. Michael Prue: What percentage do you think are taking tips from their employees? And even if the percentage is 10%, even if it's as low as that, is that fair?

Mr. James Rilett: I can't give you a number. I think you're intentionally making the problem seem a lot worse than it is. I'm sure there are people out there. We surveyed our members. Almost none said they took the tips. They did talk about participating in tip-sharing pools. They did talk about single owners, family-run restaurants, but we didn't see a prevalence of managers and owners taking tips.

Mr. Michael Prue: Okay. I thank you very much.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much, Mr. Prue. We will go to the Liberal caucus: Mr. Dhillon.

Mr. Vic Dhillon: Thank you. You mentioned that this bill can be improved. Can you elaborate on that a bit?

Mr. James Rilett: As I said, we want some of the intentions that were mentioned before to be included in the bill, if there can be amendments to include that tip-sharing pools are allowed. As well, we want to make sure that the employment standards' definition of "owners" is included.

We do think it's important that family-run restaurants—that those owners are able to participate. They are often immigrants who come and put all their life savings into a restaurant. They are often making less than the employees. So if they're serving and they're doing the washing and dishes and busing the tables, there's no reason why they shouldn't participate in the tip, because tips are about the entire experience of a restaurant.

They're not just about who brings the food to the table. It's, "Is the food good? Are the plates clean? Is the ambiance good?" It's the whole experience of a restaurant that goes into the tip. It's not just about who brings the food to the table.

Mr. Vic Dhillon: Does your organization get any complaints from employees who have been stiffed by their bosses of their tips?

Mr. James Rilett: Not that I've encountered. No, we have not. But to be fair, we mainly hear from the owners, our members. But I have not encountered that from the people who work there.

Mr. Vic Dhillon: Thank you. Did you have a question?

The Vice-Chair (Ms. Lisa MacLeod): A further question by Ms. Mangat?

Mrs. Amrit Mangat: Thank you, Chair. Thanks, James, for your presentation.

In your presentation, you spoke about some unintended consequences. Can you throw some light on that, what that could be, and how this bill would impact the stakeholders?

Mr. James Rilett: I think there have been a lot of opportunities where people attack owners of restaurants. I think most owners of restaurants in the industry do it because they love the job. It's not to get rich. It's not a high-return business. They're the first people who are turned to when community initiatives come forward. They're the first ones who sponsor sports teams. They're the first ones to provide donations to school events. These people are community-minded. They're doing a good job, and they're doing it for the love of the industry.

Mrs. Amrit Mangat: Thank you.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. We'll now go to the Ontario PC caucus. Mr. Barrett, you have three minutes.

Mr. Toby Barrett: Thank you, Chair. Thank you for the presentation.

We do hear of, like, a very small coffee shop where the only person pouring the coffee in the morning is the person who owns it, and it might be a lunch counter-style place. So you leave a tip, and I guess the question is, well, where does that money go if there's nobody else there except the owner? I know restaurant after restaurant—they all have different policies on this.

I guess the question is, do we need government that would standardize it for the large chain restaurants and have exactly the same rules as, say, a very small—almost a shack that serves coffee?

Mr. James Rilett: That's a good point. There are 40,000 restaurants, and there are probably 40,000 ways that they do business. Almost every restaurant structures it differently. The concern whenever you bring in legislation, as I mentioned earlier, is how does it affect what you've done over the years and how you've built up your business?

Yes, we always have concerns when there's a blanket statement that covers the entire industry when it's such a complex industry. So that's a concern. We just try and make it work as best we can.

Mr. Toby Barrett: And I do talk to people who work very hard—they're in the back kitchen—and the justification for them not being paid minimum wage is that they get a share of the tips. Many of these people don't like to be in the position of begging for tips. We have this two-tiered wage structure. Certain employment groups are paid less than the minimum wage, and the justification is, well, the customer makes up for it in tips. How fair is that? Any comments on that?

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Mr. James Rilett: First of all, it's only the wait staff who—

Mr. Toby Barrett: Sorry?

Mr. James Rilett: It's only the wait staff who have a different wage level.

Mr. Toby Barrett: The servers, did you say?

Mr. James Rilett: Only the servers. It's called the minimum wage for servers.

Mr. Toby Barrett: Okay. Not kitchen staff or other—

Mr. James Rilett: No, it's only servers, and the—

Mr. Toby Barrett: What about other industries, like taxi drivers? It only applies to waiters and waitresses?

Mr. James Rilett: I only know about our industry. In our industry, it's only wait staff, and the intention is that it'll be easily made up by tips. It's not a huge difference, and it's easily made up by tips.

Mr. Toby Barrett: The difference is \$10.25 an hour versus what?

Mr. James Rilett: It's \$8.75, I believe.

Mr. Toby Barrett: That's pretty significant for somebody working at that hourly rate, I think.

The Vice-Chair (Ms. Lisa MacLeod): Thanks very much, Mr. Barrett. Thank you very much, Mr. Rilett.

Mr. James Rilett: Thank you.

The Vice-Chair (Ms. Lisa MacLeod): I appreciate you attending committee today. On behalf of the committee, we thank you.

MR. GREG LEMAY

The Vice-Chair (Ms. Lisa MacLeod): I'd like to call up Greg Lemay. As I do that, I would like to notify all members of the committee that there is the potential that we will go into clause-by-clause today. I just want you to be prepared in the event that that happens.

Mr. Toby Barrett: A point of order, Chair.

The Vice-Chair (Ms. Lisa MacLeod): Yes?

Mr. Toby Barrett: I know the official opposition—I mean, I'm not the labour critic, but we just found out about this now. We weren't prepared for that. We would actually be caught quite flat-footed to have legislation go through without any opportunity to draft amendments, let alone discuss amendments.

Mr. Michael Prue: Madam Chair, if I could—

The Vice-Chair (Ms. Lisa MacLeod): Just a moment.

I've been notified by the Clerk that the committee is doing clause-by-clause next week, and the Clerk was wondering if we would like to start clause-by-clause as early as today.

Mr. Toby Barrett: We appreciate the suggestion, but I'm afraid we haven't prepared amendments.

The Vice-Chair (Ms. Lisa MacLeod): Sure. Is that the consensus here of the committee?

Mr. Michael Prue: Chair, if I could jump in, I think it's only fair—I know my bill is only one sentence long; I do anticipate a number of amendments, and I would welcome some of the amendments I've heard, because I think there needs to be clarity around the mom-and-pop shop.

Just to assuage my friend Mr. Barrett's fears here, if the server is one person and he's the owner, of course he's the server. Of course he would keep his or her tip.

But I anticipate that there are going to be a number, and I think it's only fair that we have a chance to read what's going to be put in in advance, so I would not like to go ahead today.

The Vice-Chair (Ms. Lisa MacLeod): Okay. That's the consensus, I guess, of all three political parties. I just wanted to clarify, on behalf of the Clerk. He just wanted to be prepared, in the event that there was consensus, to proceed. My mistake there, but I just wanted to raise that.

Mr. Lemay, you have five minutes. You will be questioned by each of the three caucuses for three minutes apiece. Please start now, and you may identify yourself, please.

Mr. Greg Lemay: Good afternoon, committee. Thanks for allowing me the opportunity to speak. My name is Greg Lemay. I am a paralegal from Windsor, Ontario and a member of the Law Society of Upper Canada. I stand before you today to share my thoughts on Mr. Prue's Bill 49, known as tipping out.

I was first introduced to Bill 49 through a local newspaper, and was amazed at what I was reading. Within minutes, I contacted Mr. Prue's campaign and asked if my assistance was required in Windsor-Essex. I collected between 500 and 1,000 signatures visiting local establishments, and at a few petitions at other businesses.

It should be stated that I have not worked in the service industry, and this in no way benefits me. I've always been respectful of my peers and thought of myself as an advocate or representative voice for those who don't have one, perceived or not.

I'm going to start off here with a case. It's *Barnes et al. v. Krisbair Tavern Ltd.* I think everyone has a copy of it. It's going back to the early 1980s. In that case, the court was asked to determine whether the practice of two managers—not owners—of a restaurant requiring the waiters or waitresses to share 1% of gross sales constituted a violation of the Employment Standards Act, 1980. The court found that, unless it was shown that the practice resulted in waiters' or waitresses' wage falling below the tipped minimum wage, it was not contrary to the standards act, so basically it was dismissed at the Ontario Court of Appeal.

Increasingly, we are working in a service economy. With the decline of manufacturing, the service sector of our economy has been growing. If we want our economy to succeed, we need to ensure that we have the necessary legislation to protect and ensure that workers receive the

living wages that enable them to thrive in the province, as the middle class is once again exiting. This is proven by a study done at Harvard University, which holds the position that as we eliminate unions, we eliminate the middle class.

In Ontario, the minimum wage for tipped employees in a liquor-licensed restaurant is \$8.90 an hour, far below the actual minimum wage of \$10.25. Why is it permissible to have a lower minimum wage for service workers? Because it was understood by legislators that this reduced minimum would be supplemented by the gratuities that arose from the aforementioned social understanding.

It is understood traditionally that a socially acceptable tip is typically between 10% and 15% of a bill of sale. It is generally understood that this extra 10% to 15% is paid to the server in an effort to supplement their abnormally low hourly wage of \$8.90.

Owners are expropriating the tips of servers in a manipulation of the expectation of the customer. It seems to me that legislators underestimated the predatory nature of a fair number of owners in our service economy, and essentially what we're asking for you to do is to close the loophole to ensure that these workers receive the living wages that they would require and have worked for.

I remember a time when Ontario was the engine of the Canadian economy. We have continued to slip below that of our counterparts. Examples: Ontario's unemployment rate is 7.3%, which is higher than Manitoba's at 5.5% and Saskatchewan and Alberta's at 4.3%. Ontario's minimum wage is \$10.25 an hour, less than Manitoba's at \$10.45 and Yukon's at \$10.54.

In Quebec, and I also heard today New Brunswick, this practice of tipping out isn't condoned, as they do not allow managers and owners to receive a portion of tips. Ontario was once the model of our evolving economy. Why are we playing second fiddle? Other jurisdictions are superior to Ontario, again once the provincial model that others followed.

Although Ontario is a manufacturing powerhouse, the services sector is the largest part of Ontario's economy. It employs 79%, or 5.3 million people, in the province and it makes up 76.9% of the province's economy. Examples of Ontario's major services sectors include business and financial service, professional and scientific-technical services, and arts and culture. There were 30,000 more people employed in accommodation and food services in October, bringing employment gains to the industry to 78,000, or plus 7.2% since October 2012, according to StatsCan.

Ontario's employment increased mostly in the service-providing sector. In May 2013, the services-producing sector led employment growth in Ontario, measured both on a month-to-month—41,200—and a year-to-year basis—176,100. That being said, Canada's unemployment rate was highest for women aged 15 to 24; that rate in May 2012—

The Vice-Chair (Ms. Lisa MacLeod): You have one minute.

Mr. Greg Lemay:—was 15.6%. Canada's youth unemployment rate from 1977 to 2012 was 14.3% compared to 6% for core-aged adults aged 25 to 54.

The practice of tipping out for managers and servers needs to cease immediately. Owners taking servers' tips is no different than you or I taking a purse from an elderly woman. It constitutes theft under the Criminal Code of Canada. This may lead one to conclude that the parties involved require engagement and corrective counselling under supervision.

We need to take a stand. We need to work together. We need to do what is right and what is fair. What is clearly required is—I read you a case dating back to the 1980s, that's two years before I was born, to put that in perspective of how long this has been occurring in Ontario. Thank you.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. I will now begin with the Liberal caucus. You have three minutes, Mr. Dhillon.

Mr. Vic Dhillon: How rampant is this problem in the industry, do you feel?

Mr. Greg Lemay: As far as I know—I have a lot of friends that work in the business industry in Windsor and Essex, and basically what I get from them is that a large portion of them do take it. A couple of my buddies—I'm not going to mention where—are managers and owners. An example he gave me was, let's say they got \$300 for tips for the night.

Mr. Vic Dhillon: For one person?

Mr. Greg Lemay: Yes, one person. A bartender, let's say. He would take \$50 to \$60, sometimes \$100, of that right off the top.

Mr. Vic Dhillon: Without any—

Mr. Greg Lemay: Not even a percentage; he would just take 100 bucks of that.

Mr. Vic Dhillon: Without any explanation?

Mr. Greg Lemay: No. It's somehow understood that that sharing is okay; I don't understand.

Mr. Vic Dhillon: You've gathered a lot of signatures on a petition.

Mr. Greg Lemay: Yes.

Mr. Vic Dhillon: In which types of restaurants do you feel this is more sort of widespread, in the mom-and-pop type restaurant or the bigger national franchises?

Mr. Greg Lemay: I would say the bigger franchises, and I would also say more restaurants and bars where, for example, you go in to have a burger and fries and a beer. I would say it happens in those a lot, from what I've gathered in going to—

Mr. Vic Dhillon: And have the people you've been in contact with, have they ever tried to make a complaint about this?

Mr. Greg Lemay: As far as I know, yes, some have tried to make a complaint. I know a couple that actually were fired, so—

Mr. Vic Dhillon: Because of that?

Mr. Greg Lemay: Yes, they were let go, and obviously for different reasons, right?

Mr. Vic Dhillon: Okay, thank you.

The Vice-Chair (Ms. Lisa MacLeod): Any other questions from the NDP caucus? Ms. Mangat.

Mrs. Amrit Mangat: So what do you recommend? How can we get rid of this problem?

Mr. Greg Lemay: Like I said, having legislation, obviously. With having legislation, if, for example, a worker needed to complain or wanted to solve the problem or—you know what I'm saying? Then they would have some type of legal leg to stand on, if they were fired.

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Mrs. Amrit Mangat: So what kinds of problems do you hear when people come and complain to you?

Mr. Greg Lemay: Sorry, say that again?

Mrs. Amrit Mangat: What types of problems do you hear when people complain to you, who are working over there?

Mr. Greg Lemay: What I'm hearing is that, for example, they'll make a certain amount of tips, and then the owners will take that. Let's say they're making \$8.90 an hour and they're working a six-hour shift, which is approximately \$50; that would be somewhat around their take-home. If they're taking 5%—let's say they sold \$1,000 worth of food and booze and they took 5%. Well, they worked for free.

Mrs. Amrit Mangat: So are you in favour of tip-sharing? That's what you're saying?

Mr. Greg Lemay: No. I'm not in favour of tip-sharing. It depends on who it is. For example, if you're a waitress and you have to tip-out the bartender because that person made your drinks, I don't see an issue with that. But the owners and managers taking it? I don't see why that—

Mrs. Amrit Mangat: Okay, just to clarify—

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. That concludes your time, Ms. Mangat. I apologize.

Mr. Barrett, you have three minutes.

Mr. Toby Barrett: I'm just still trying to clarify this in my mind. We know this legislation reads, "An employer shall not take any portion of an employee's tips or ... gratuities." I think of a small restaurant down my way in Haldimand-Norfolk that's part of a bed and breakfast. The owners, husband and wife, live there. Sometimes their daughter helps. On occasion, they do have other staff, maybe on a Saturday, one other person. When you read the menu, at the bottom it says a 15% gratuity—whatever it is—is added to your bill, so you don't leave cash on the table or anything like that. I go there fairly regularly. They're usually the only people there. Sometimes, there is someone helping. With this legislation, are we going to see more of that on menus, where the owner would take more control and put this on the bottom? I think many restaurants have that arrangement anyway; I don't know.

Mr. Greg Lemay: I don't know if you'd see more of it. Even with that on there, really, what would that matter? I think with this legislation, you're giving that portion of that tip directly to that server or waitress. Even

if they took 15% or it was added on automatically, that would still go back to the waitress or server, the way I understand it.

Mr. Toby Barrett: Yes, I see.

I don't have any more questions.

The Vice-Chair (Ms. Lisa MacLeod): You're all finished? Okay, that's great.

We have a final set of questions from Mr. Prue.

Mr. Michael Prue: First of all, thank you for coming all the way from Windsor and for taking this up, particularly since you are not a person whom I would ordinarily expect to get tips. Did you take this beyond the restaurant experience? Because there are also cab drivers, estheticians, hairdressers, car jockeys at the Windsor casino—all of whom get tips too, and many of whom have their tips taken off by employers.

Mr. Greg Lemay: I have not.

Mr. Michael Prue: You have not. Okay. The premise of the bill, as you correctly stated, is that an employer shall not take a portion. The bill is very silent—and I want my Liberal colleagues to understand—on tip-pooling, where this is given to serving staff, to the bartenders, sometimes to the cooking staff and other people in the restaurant who make for the whole experience. Have you uncovered any servers in the province who don't want to tip-pool?

Mr. Greg Lemay: No.

Mr. Michael Prue: No, I haven't either; I haven't. I don't know whether there are going to be amendments to this or if it needs to be clarified, but certainly, there is no intent whatsoever to stop tip-pooling. You have to remember, we're New Democrats. We like to share, but what we don't like is employers—now, you said you knew people who were fired. Is this because they complained?

Mr. Greg Lemay: They complained, yes.

Mr. Michael Prue: Okay.

Mr. Greg Lemay: And then, obviously, they were fired for a different reason, right? You're not fired for that reason; you did something else.

Mr. Michael Prue: You did something else. You were late or you sassed the boss or something.

Mr. Greg Lemay: Absolutely.

Mr. Michael Prue: Absolutely. In the Employment Standards Act, it is against the law for an employer to take any portion of an employee's wages as a condition of employment, but it is not against the law to take the tips. Why do you think that was done? Or do you have any idea about that?

Mr. Greg Lemay: I think it was done, like I said, to basically supplement the \$8.90. If they're taking that money from the \$8.90, then how are you paying them less than minimum wage? I think that is the reason why they were supplemented—that they would assume that all that tip money would be going to them to supplement their low wage.

Mr. Michael Prue: Okay. I think you've answered everything I need to ask. Thank you for coming all the way from Windsor.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much, Mr. Lemay. It's very nice of you to join us. Thank you very much, Mr. Prue.

I'd like to now call our next deputant, Heather Thomson, if she could join us. Is Heather Thomson here?

TOURISM INDUSTRY ASSOCIATION OF ONTARIO

The Vice-Chair (Ms. Lisa MacLeod): Next is the Tourism Industry Association of Ontario: Beth Potter, president and CEO. You have five minutes for your deputation. Each political party, starting with the Ontario Progressive Conservatives, will ask you questions. Please state your name, and you're welcome to your presentation.

Ms. Beth Potter: Thank you for having me here today. My name is Beth Potter. I'm the president and CEO of the Tourism Industry Association of Ontario.

TIAO is the recognized umbrella association that advocates on behalf of the tourism industry. Our industry represents more than 149,000 businesses, more than 305,000 employees, and brings in \$23.6 billion a year in receipts. Our industry is larger than the agriculture, forestry and mining industries combined, and we are the largest employer of youth.

Today I'd like to speak with you about Bill 49, An Act to amend the Employment Standards Act, 2000 with respect to tips and other gratuities.

"Gratuity" is defined as a tip or money that has been paid or given to or left for an employee by a guest of a business over and above the actual amount due for services rendered or for goods, food, drink, articles sold or served to guests.

As you are aware, Ontario's tourism and hospitality industry is vast and varied, and operational practices are designed to meet the needs of the specific establishment. Our industry includes festivals, events, attractions, accommodations, recreational activities, camping, culinary and more, each potentially employing staff that could earn tips or gratuities from guests. Bill 49 fails to consider the vast array of operational differences throughout the industry, and because of these differences, we believe that the issue of tipping is best left to owners and their staff to determine.

Commentary on Bill 49 seems to be focused solely on restaurants, yet the bill is a proposed amendment to the Employment Standards Act and would therefore impact every business where gratuities are left—for example, taxi drivers, hairstylists, spa workers and delivery staff, to name but a few. If the bill becomes law, it will add to the regulatory burden of an industry that is already heavily regulated in many areas.

Currently, gratuities form a portion of the wages-and-benefits discussion between staff and management during the employment process. In some cases, gratuities are also negotiated as part of the collective bargaining process in Ontario.

Gratuities are pooled and shared in many hospitality establishments. Employers remit payroll taxes on controlled tips, as defined by the Canada Revenue Agency.

Tip-sharing is when directly tipped employees share their tips with other workers who provide direct customer service. Tip-pooling is when directly tipped employees pool their tips and redistribute them among directly and indirectly tipped employees.

To date, the current option of pooling tips in Ontario is one that our industry supports. In fact, it is a key component of the employee-employer relationship, and provides an opportunity for all to benefit from the investments made in this highly regulated and competitive industry.

Another consideration that needs to be understood is that small business owners often do the work themselves and should be allowed to collect tips or share in tip-pooling or tip-sharing, if appropriate. For example, if Joe owns Joe's Restaurant and works as a host or buses tables or works in the kitchen or as wait staff, then Joe should be allowed to share in the tips for the work he does. Similarly, if Sarah is the manager of Joe's Restaurant and works as a hostess, buses tables, works in the kitchen or as wait staff—all functions that normally would share in tip-pooling—then Sarah should be allowed to also share in the tips for the work that she does.

Automatic gratuity charges are commonly added to large groups, banquets, meetings and convention services. These automatic gratuity charges often cover more than just tips and gratuities, with a portion being returned to the house in the form of a service charge. Bill 49 does not address the automatic gratuity charges.

Many guests pay their invoice by credit card or debit card. The business owner is charged a processing fee, one that varies by card and by type of card. These fees can form a large portion of a business owner's operating expenses. As guests often add their tip to the credit or debit transaction, there is an associated cost of processing that tip.

With respect to Bill 49 proceeding, we suggest the following amendments:

—that the practice of tip-pooling or tip-sharing be allowed for the purpose of redistribution of tips;

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—that employers and managers be allowed to share in the tip pool if they regularly participate in a job function that would earn tips;

—that automatic gratuity charges placed on bills by banquet and hotels be distributed and/or shared with the house as long as they are called a "facility charge" and are clearly identified on the guest's invoice;

—that, at the employer's discretion, the employer can keep the cost portion of the tip to cover the cost of the credit or debit card processing fee for the tip; and

—that tips should be included in situations covered by the Income Tax Act or by court order, for example, for the purpose of garnishing wages.

There is no one-size-fits-all solution for tips and gratuities. Within the tourism industry, we firmly believe

that this issue of tips and gratuities would best be left to individual business owners and their staff to determine the best and most fair way to handle tips and gratuities for that establishment.

On behalf of the Tourism Industry Association of Ontario and our members, I thank you for your time this afternoon.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. We'll now go to Mr. Barrett and the Ontario PC caucus.

Mr. Toby Barrett: Thank you very much to the Tourism Industry Association of Ontario.

You have a list of amendments here at the end—if we could take a look at those. Apparently, from what we hear—and I don't hear of these situations locally, but there are some of these terrible situations, so we're told, where owners are dipping into the tip jar, for example. It's probably just one example of a very poor relationship with their staff, who aren't making much money, especially in small towns. There aren't any other jobs. Is there anything that your association or a restaurant association could do on a voluntary basis, through information, to deal with this? Because it's bad public relations; one bad apple spoils the barrel.

Ms. Beth Potter: Absolutely.

Mr. Toby Barrett: Or do we need a law with all of these amendments? Do we need to open it up and then who knows what kinds of regulations come along? Normally, elected people don't have any say in the regulation. Do you see any alternatives beyond passing yet another law and more regulation?

Ms. Beth Potter: We could certainly work with the industry to develop a series of best practices and communicate those and educate business owners within the tourism industry on best practices that would dissuade people from doing the kind of activity that you're talking about.

But for the most part, business owners understand that tips are part of the wage and benefit conversation, and that folks, when they work in positions that earn tips, earn a slightly lower minimum wage because of that.

Mr. Toby Barrett: I'm sorry; do you see any problem with the fact that people work for minimum wage, but then there's this other category of people who work below the minimum wage, supposedly supplemented by tips?

Ms. Beth Potter: They are supplemented by tips—

Mr. Toby Barrett: If they're lucky, yes. Not everybody tips, especially in low-income areas where people work below minimum wage, like in these jobs.

Ms. Beth Potter: I've spent a lot of time over the past number of weeks speaking with people about minimum wage. I sit on the minimum wage advisory panel for the Minister of Labour, and I can tell you that tipping is absolutely a part of that wage category across the province.

Mr. Toby Barrett: It just seems unfortunate. Many of these people would rather at least get minimum wage and not have to beg for tips. That's what they tell me.

Ms. Beth Potter: And I've heard examples of folks who don't want to give up their tip-related job because they don't want to move into a management position.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. We're going to have to go to Mr. Prue.

Mr. Michael Prue: Quebec, New Brunswick, Prince Edward Island and the neighbouring state of New York all have laws against owners dipping into the pool. Has that decreased their tourism in any way?

Ms. Beth Potter: In Ontario, we feel that it's best left to the—

Mr. Michael Prue: No. My question is, has it decreased—you're putting up a fear here—tourism to Quebec, New Brunswick, Prince Edward Island or New York state?

Ms. Beth Potter: I can't answer that question.

Mr. Michael Prue: Okay. I didn't think so, because I don't think it has.

The next thing you said is that tipping is best left to owners and their staff to determine. All of the power rests with the owner, unless the place is unionized and has a collective agreement. If the server objects to the owner taking a portion of their tips to pad their profit, usually they get fired, demoted, given lousy hours, told to look elsewhere or any other number of things. Is that not true?

Ms. Beth Potter: The businesses that we deal with, the members of our association, work in a fair and honest environment. Those kinds of practices are not—

Mr. Michael Prue: Those that don't work in a fair and honest environment, what should the Legislature do? Turn a blind eye?

Ms. Beth Potter: Because of the proposed legislation, we have said, "If the Legislature's going to go forward, here's what we think should be in place."

Mr. Michael Prue: Okay.

Ms. Beth Potter: These are the amendments that we would see would be fair.

Mr. Michael Prue: Fair enough. I would agree with some of the things you have here, and I'm sure some of my colleagues in the Liberal Party will be putting in some amendments to clarify.

We think that an owner who buses tables should get a percentage. We think that gratuity charges put on by a banquet should not be gratuity charges: If that is a service charge, then it should be labelled as such, because, in their son's or daughter's wedding, people mistakenly think the 18% is going to the servers, whereas, in fact, the servers in many cases get absolutely nothing. So why is that a fair practice?

Ms. Beth Potter: As we've stated in our deputation today, if it's not a gratuity, it should be labelled as such and be clear and transparent to the guest paying the invoice.

Mr. Michael Prue: And why should servers pay a portion, or all, of the Visa charges when a Visa is used? Why should the servers have to pay that?

Ms. Beth Potter: I'm not suggesting that they do. I'm suggesting that the employer—

Mr. Michael Prue: Have that discretion to leave it there.

Ms. Beth Potter: The employer, if they choose to eat the cost, can. But they should be able to deduct that because it is a cost of doing business.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. I appreciate that.

We'll now go to the Liberal caucus. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much, Ms. Potter, for being here today. With respect to what Mr. Barrett was saying in regard to the family that owns the restaurant, do you think the family should not be able to receive any of the tips that are received?

Ms. Beth Potter: I'm sorry; can you repeat the question?

Mr. Vic Dhillon: In a family-owned restaurant, what's your opinion on whether the owner should be able to get some of the tips?

Ms. Beth Potter: As we've stated, if the owner is doing some of the work that would generally receive tips, then the owner should be allowed to share in those tips. If the owner is cooking, if the owner is waiting tables, if the owner is busing tables or if the owner is acting as the host or hostess in the restaurant, then the owner should be allowed to share in the tips.

Mr. Vic Dhillon: Thank you.

The Vice-Chair (Ms. Lisa MacLeod): Any other questions from the Liberal caucus? Go ahead, Ms. Mangat.

Ms. Amrit Mangat: At the present time, among your stakeholders, does tip-holding occur?

Ms. Beth Potter: Yes.

Mrs. Amrit Mangat: Who administers it?

Ms. Beth Potter: The business owner or the manager.

Mrs. Amrit Mangat: Okay.

Ms. Beth Potter: It's up to each individual business to determine that practice.

Mrs. Amrit Mangat: Okay. Thank you.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. That concludes your time; we really appreciate you coming to join our committee today.

Ms. Beth Potter: Great, thank you for having me.

The Vice-Chair (Ms. Lisa MacLeod): Our next deputant is—well, we'll call out for Heather Thomson. Is Heather Thomson here? This is your last call. She's not here. Soedi Antonelli? Soedi Antonelli? Last call.

MR. JULIUS VARGA

The Vice-Chair (Ms. Lisa MacLeod): We'll go to Julius Varga. Julius, please be seated. You have five minutes to make your case. There will be a three-minute rotation for each political party, starting with the NDP. You're welcome to start your presentation, and please state your name.

Mr. Julius Varga: First off, thank you for the opportunity to be part of seeing this Bill 49 go through, and I'd like to thank Mr. Prue here for his persistence. I came to know this bill as Bill 114 just four or five years ago, and

then, since it was dropped, I'm very happy that it's back on the table.

Today I'm here to support Bill 49. I believe that every relationship is either strengthened or weakened by our regard for each other. Sadly, I don't think our laws provide adequate protection for the employees of hospitality, not only the workers, in terms of the work environment, but the fact that their dignity is stripped away every day.

My current position is as a manager. For the last five years, I've seen too much of the cruelty that takes place in this business, and that's why I'm here today. I'm here with good intentions, to help expose these patterns. I'm not here to point fingers at any restaurant or spell out the name of any person, but rather to identify the patterns that should be expunged or find a solution to prevent them.

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I believe that our society has to do a better job of guarding the ambassador hospitality, considering that every skill in human interaction is what we perform in a restaurant. In my opinion, every business interaction is about making each other feel they got more than they paid for, and the platform is the restaurant.

Before I go further, I'd like to make a couple of distinctions here considering the earlier speakers. There's a big difference between restaurants and banquet facilities. You see, in restaurants you primarily earn the tips, while in banquet facilities, the tips are charged on a given amount. So the performance of the staff is different. I could see how a banquet facility that charges \$180 a plate may be considering utilizing the tips towards the rest of the staff, but it's very different in a restaurant.

Also, I'd like to make a distinction between a pub and a fine-dining restaurant or a steak house. The same way we have a Kia for \$10,000 and a Land Rover for \$70,000, the only way you sell the Land Rover is if there is craftsmanship on the floor. Earlier, a speaker was mentioning that owners should be part of the pool; I think by qualification only. It's very important that owners or any managers that expect their staff to perform first walk the talk. To earn that \$50 dollar a plate is very different than in an eatery where it is \$10. In eateries, you only fulfill nutritional fulfilment. Anything higher, if anybody cares to—in the Abraham Maslow theory, the fourth and fifth are a sense of belonging and of self-actualization. That takes craft, and that's what I'm here to do today, to mainly speak for that because that's the level of restaurant I'm in.

I know that I had submitted a little more than I should have—the 8-page email—but if you care to listen to it, just to indicate how severe this problem is and the reprisals. I have written a letter to the labour board in defence of one of the employees who walked out because not only were there issues with the tips, but there were hours and so many unfair deductions. So the tip to me is barely the tip of the iceberg. There are so many other issues in this restaurant business, and again, that's because of the opportunistic management and of the owners.

Again, I'd like to say that people don't understand that the legs of the operation are the service. That is the glue that makes people stick. Then I think we'll never have good restaurant service. I don't know if anybody cares to listen to the pitch, should I bother with that? Mr. Prue?

The Vice-Chair (Ms. Lisa MacLeod): You have about 10 seconds left. You're more than welcome to.

Mr. Julius Varga: This was a letter that I wrote in defence of this lady who was, again, taken advantage of over and over again. This is what I said in it. I'd rather not call out the name of the person. The complaint was to the restaurant I work at right now, and I want to confirm not only her professional character but the patterns of abuse I had witnessed her to be subjected to. In fact, I myself endured sessions of intimidation, being screamed at for long periods of time, over many occasions, sometimes with other staff members witnessing but mostly in isolation, when speaking up for the employee rights. My efforts were aimed to address the simultaneous complaints of the missing hours, no vacation pay, no statutory pay, sexual harassment and verbal assaults. On one occasion, I had to contact the police—

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. We'll now go to questioning.

Mr. Michael Prue: I've got a couple of questions. You have witnessed this. How many years have you been in the restaurant business?

Mr. Julius Varga: I was in New York; I returned in 2004, so you could say nine years here in Ontario.

Mr. Michael Prue: Nine years. Do they have the law in New York that owners couldn't take when you were there?

Mr. Julius Varga: Well, I can't say what the law is because the places I worked at were all high-end steak houses and nobody ever touched the tips. There was an understanding that the happier the staff, the higher the morale and the more they perform. So there was this palpable respect between management, owners and the staff.

Mr. Michael Prue: Okay, because New York, I would trust, had that law, but you just maybe weren't aware of it. You've been here for nine years in the restaurant industry.

Mr. Julius Varga: Yes.

Mr. Michael Prue: Have you worked in places that did take the tips or portions of the tips from their employees?

Mr. Julius Varga: Absolutely. What I see is general. Again, there is no justification for it many times. There is no support staff. There is no buser, food runner or hostess, and most places will take 3% or 4% arbitrarily.

Mr. Michael Prue: All right. I understand that many of the more expensive restaurants take 3%, 4% or 5% of gross. Whether you get a tip or not, you have to pay them.

Mr. Julius Varga: That's correct.

Mr. Michael Prue: Yes. Just so the members might understand this, on a \$100 bill, you pay \$5 to the management before you get a tip. So if you don't get a tip,

then you paid for working. Is this common, that kind of thing?

Mr. Julius Varga: Very common. In fact, it's so common that when I lost my job for speaking up, I went into many restaurants. I always want to get a feel of the abuse. The first day I was there, people—adults, these were adult people—cried for my help to help them get out of the restaurant. The degree of stripping people's dignity is just egregious. I don't think we actually touched upon how bad it is.

Mr. Michael Prue: Please tell them. You've got a minute. Please tell them how bad it is.

Mr. Julius Varga: Well, as I mentioned—again, the intimidation factor, right? Most of the time, your security is not based on performance. It's based on how well you fit under the thumb. Everywhere you go, in a lot of places, they start by cutting your hours. It's probably everywhere. You can go to work, and five hours are missing or 10 hours are missing—a week. The less you speak up, the more likely they are to keep you. The more you speak up, the sooner you are out. So you haven't even gotten to the tip situation.

Tips—very common, even in the place I am right now; I made some changes. I'm very grateful for that because the owner's son and I are the same age, and I think he understands that it's in his best interest. For the record, I thank him. But tips are usually taken away, and there is no record. They come back the next week, or the week after in envelopes. There is never a record. If you did ask for a record, or if you speak up about the \$50 missing, you're out.

The Vice-Chair (Ms. Lisa MacLeod): We'll now go to the Liberal caucus. Mr. Dhillon.

Mr. Vic Dhillon: Thank you for your presentation and sharing your story. How widespread is this problem in the industry?

Mr. Julius Varga: Well, sir, I can only—

Mr. Vic Dhillon: You personally obviously have some experiences, but in terms of the ground, how widespread do you feel this problem is?

Mr. Julius Varga: Again, I can only speak of the places that I know of and the network of servers. I have a network of servers. I used to manage the Rosewater Supper Club downtown. At that point—this was five or six years ago—I knew every restaurant in the area: Harbour Sixty and all that. It's everywhere.

But now I'm up in Barrie. Again, I don't know too many restaurants in the Barrie area, so I can only speak from my experience, but I have seen it in every restaurant.

Mr. Vic Dhillon: With respect to tip pooling, can you explain? It's supposed to happen in theory. Does it actually happen?

Mr. Julius Varga: Well, let me tell you this: Every server I've ever worked with was more than willing to share the tips with the support staff. You have to understand that you get subminimum wage, right? So there is this stipulation that you will get tips. That's very different than working in a kitchen for \$15 an hour, and you

expect your tips. Sometimes you have no business, or, as Mr. Prue mentioned, there is a dash-and-dine. They walk out, and you're still responsible for the tips that you never even earned.

So the tip-pooling, again, I think is a wonderful, wonderful idea because you want to promote cohesion, not division, so I'm all for it. But, again, you have to chip in; you have to contribute. The tip cannot be taken arbitrarily. This is the problem. I would say, in the majority of the cases, that's the case. There is no justification to take in the tip. So the servers—as I said, I have never met a dishonest server who wanted to stiff the busboy or the food runner.

Mr. Vic Dhillon: What do you think this bill would mean to the industry and to the workers?

Mr. Julius Varga: I think this would be a platform. This would be a stepping stone. This would be an encouragement. Also, this would be a wonderful deterrence to stop those practices.

I think people, again, enact patterns. So if people know that there is a consequence, which we don't have right now, even the very businesses that commit these—I call them violations—would probably think twice.

Also, what I'd really like to see is—again, this should be a dignified profession. If you aspire to serve the public, there should be a welcoming industry where you come in. But right now there isn't. You can go to work and go home and share that disappointment with your family, and the next thing you know, you lose your faith in humanity, with your neighbour. It's everywhere. It's not the 1,000 people that it affects in a certain industry; it goes far beyond that. This bill, to me, is the first step towards a good solution.

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The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. Mr. Barrett, you now have three minutes to question the witness.

Mr. Toby Barrett: It is disturbing to hear some of these terrible stories of owners that don't know how to deal with staff or that are ethically challenged, or maybe they're just incompetent. Traditionally, and again I represent a rural area, word gets around in small towns and rural areas: Somebody's daughter is being abused in a restaurant. After a while, that restaurant closes; people don't go there. However, in downtown Toronto, with large chains and people jumping from restaurant to restaurant, they have no idea of the real reputation of that restaurant, beyond the taste of the food, perhaps.

This legislation isn't going to cover a lot of that. I like to think there are other laws and recourses under labour legislation, for example, that people can turn to, but I don't know whether this is the platform to handle all of that.

Just going back to the intent of this bill, which again is one sentence, that the employer cannot receive a tip, we do hear from facilities where it's a husband-and-wife team, and maybe their daughter works there, or perhaps they have someone part-time. This means that for tip money that comes in for those owners or family who are

doing a lot of the same work—they're cooking or what have you—the law would say they can't accept that money or it has to go to the employee that maybe didn't show up that day. How do we get around that?

Mr. Julius Varga: Thank you so much for bringing up that point of the owners. From my experience, let me tell you, most of the time they can't get employees. That's why the owners serve those tables, because their reputation is so bad. I can tell you—

Mr. Toby Barrett: Oh, they cannot get employees, did you say?

Mr. Julius Varga: That's correct, because the employees are not respected. I can tell you about restaurants that can't get chefs anymore, and they import them from other countries, like Italy or whatever. Then they put them in the corner. I can tell you about restaurants.

Again, I guess you have to know what level of restaurant you're talking about. I can't speak for every level of restaurant, but I can tell you from experience that there's so many restaurants that nobody wants to work for because their reputation is so bad. You may come in as a diner and say, "Oh, we've got a lovely owner here and the wife and everybody serving us." There's a reason why.

Mr. Toby Barrett: So many of us don't live in small towns anymore, but I like to think that through social media and through networks—bartender networks, kitchen staff networks—the word gets out, that if the law is not there or not adequately protecting them, there are other ways—and the industry itself policing itself.

The Vice-Chair (Ms. Lisa MacLeod): I'm sorry; there's no more time. Thank you, Mr. Varga. It was very generous of you to spend some time here with us today.

MS. HEATHER THOMSON

The Vice-Chair (Ms. Lisa MacLeod): I'd like to actually go back to call Heather Thomson; I think she arrived just after. Heather, please be seated. You have five minutes to make your deputation. You will then be greeted in rotation by the political parties for three minutes apiece. You may now start your deputation. Please identify yourself.

Ms. Heather Thomson: Perfect. My name is Heather Thomson. I've been working in the restaurant industry for 12 years, since I turned 18. I came here today to share some of my experiences both receiving tip-out and having to tip out, as I've worked both front of the house and back of the house. I've managed back of the house and I've managed front of the house in my experiences.

Right now I am currently employed at a restaurant called Symposium Café. It's a chain restaurant, a new chain. Their policy is a 4% tip-out on your gross sales. So whenever I go into work, every shift I work, I must tip out 4% of my gross sales of the day, regardless of what I make, regardless of what business is—no matter what.

I'll give you yesterday as an example. I sold \$800, and my tip-out was 30-something dollars. Also, every day, every shift, you're required to pay a \$2 breakage fee:

\$520 a year, five shifts a week, I pay to break their dishes or not break their dishes. Every staff pays.

As we tip out, we have a host staff, we have a dessert staff, we have a cook staff and we have a bartending staff that receive tip-out. The person who handles the tip-out: The management collects it, and it's given to our franchisees' mother. We have two brothers that own our restaurant, and their mother who helps manage it. There is no accountability as to where that money goes, who splits it up, who gets what.

As both a receiver and a payee in many different restaurants getting and receiving tip-out, you always feel like you're being taken for granted, like your money is being robbed from you. There's never any documentation as to who gets that money. There's never any documentation who receives that money. There's never any documentation as to what portion the house keeps of that money.

In a staff meeting we had last week, we were told that it is not mandatory for the guests to tip you, and it isn't. We give good service, and if the guest feels that we've given good service, they tip you. But it is still mandatory for us to tip out. If we refuse to tip out, we lose our hours, and we lose our job; they find some way to get rid of us. That's why I hope this law is passed.

Another experience I've had with tip-out is at Hockley Valley Resort in Orangeville; maybe some of you are familiar with it. Their tip pool program was different because most of the tips given in the restaurant, as a banquet facility, are done by either contract, credit card or room charge. You very rarely see cash in a resort because you can just sign the bill way. Their process was that they collected all the tips, and it was split amongst the staff that were working that evening—again, no accountability, no documentation.

I worked there for a year before, finally, the owner of the restaurant and her daughter, who also helped manage it, sat everyone down and explained it to us. "If your guest tips you 15%," which is usually what they added to any kind of contract or business dinners we had out there, "we keep 5%." So 33% of the tips—our tips, that are given to us for our service—is kept by the hotel. The kitchen staff did not receive anything. The support staff received a certain percentage of the tips, and we received a certain percentage of the tips. But they made it very clear that they kept 33.3% of all of our tips.

Where was that money going? Why didn't we receive it? They gave a reason that it was to cover Visa and MasterCard charges and other incidentals. I don't understand why. When a guest comes to a restaurant, and they give us a gratuity, they expect that we get it. Most of the populace doesn't know that we have to give it to the owners for any reason, and they're using our tips to subsidize their labour costs, their breakage costs. These are the costs of doing business. Do you make your personal assistants pay for their office supplies? It's really something that I find to be quite atrocious in all the years I've been working in the restaurant industry.

If it was posted, if we saw where our money was going, if we knew—I'm sure, somewhere, back in the

day, this started as a server who went, “Hey, you did a really good job with my food tonight; here’s some money.” Now it’s been made mandatory. It’s been taken out of our hands as a social gesture of goodwill in between staff, and the owners of all these businesses are profiting—

The Chair (Mr. Garfield Dunlop): You have 30 seconds, ma’am.

Ms. Heather Thomson: Sorry? Thirty seconds?

The Chair (Mr. Garfield Dunlop): Yes.

Ms. Heather Thomson: —profiting off the generosity of the guests that come in that we serve.

I live in a small community in Bolton. Most of the people that come in every day know me. They know all of our staff. They’re friendly. We know them all by name. They gratuity us, not knowing that my managers, who are the owners, receive a portion of tip-out because they’re on the floor.

The Chair (Mr. Garfield Dunlop): That’s your time for your presentation. We’ll now go to the government members. You have three minutes for questions and answers.

Mr. Vic Dhillon: Again, how widespread is this? Obviously, you’ve experienced this in quite—

Ms. Heather Thomson: I’ve worked in many chain restaurants. I’ve worked at East Side Mario’s, Boston Pizza, Montana’s, Casey’s, and I’m sure a few more—oh, the Keg. Everywhere you go, a minimum of 2% to 5% goes to the house. The kitchen usually receives a portion. You never know how it’s divvied up. It’s always out of the staff’s hands. Usually a franchisee or someone takes care of that. Everybody’s left with the feeling of “Where did that money go? Why is my tip-out so small? I worked so many hours.”

Mr. Vic Dhillon: Is there a high turnover in the restaurant industry?

Ms. Heather Thomson: Every restaurant has a high turnover. Every one.

Mr. Vic Dhillon: Do you feel problems such as this make for that high rate of turnover?

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Ms. Heather Thomson: Absolutely. In the small restaurant that I’m in, which is an average-cost restaurant—I’ve been there a year. I’ll probably go find another job next year, because if I work a seven-hour day, and I sell \$1,000, I have to pay \$40 to the house. What was my wage for that day for, that seven hours at \$8.90? I just paid for half my wage. What’s the point of going to work if I’m paying my own wages?

Mr. Vic Dhillon: What would this bill mean to you?

Ms. Heather Thomson: To me, the bill would mean that tip-out would no longer be mandatory, that it would be taken back out of the owner’s hands and put into the staff’s hands. If I want to tip out my busperson, my hostess or my cook, I should be able to do so without having the owner’s hands in the pot. They shouldn’t be there. These are the costs of doing business. You shouldn’t be subsidizing your business costs with my gratuities. I earn those. I get subminimum wage because I

earn those. Then you’re going to take them? What’s fair about that?

Mr. Vic Dhillon: Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much to the government members. Now to the official opposition. Mr. Barrett.

Mr. Toby Barrett: An excellent presentation. It’s mostly with some of these large chains that were listed in one of your responses where they take a percentage of the gross tips that come in?

Ms. Heather Thomson: Yes. Every day you work, you must pay a percentage—in the restaurant I’m in currently, it’s 4%—of whatever your gross sales are that day. If I sell \$200, I’ve got to pay 4%. If I sell \$1,000, it’s \$40 I pay them.

Mr. Toby Barrett: Yes. Then that, theoretically, gets divvied up by everybody, and in some cases, the owner, as you’re suggesting.

Ms. Heather Thomson: All five managers who work in my restaurant collect tip-out. That is why the tip-out is so high in my restaurant. If it was only 2%, and they were all collecting tip-out because they worked the most hours—because it’s usually divvied up based on how many hours you work—there would be nothing to go to the rest of the staff. They’d get the most of the tip-out because they work the most hours. But they’re salaried managers.

Mr. Toby Barrett: So it goes to the managers and the kitchen staff, as you said, but not the owner?

Ms. Heather Thomson: The owner is the manager.

Mr. Toby Barrett: Of a very large chain?

Ms. Heather Thomson: It’s a 14-store chain right now. He’s the franchisee. There are two franchisees, and they collect tip-out because they manage the restaurant.

Mr. Toby Barrett: I see. Yes. Okay, then. Does this occur in many other restaurants that you’re aware of, or is it mainly in the chains?

Ms. Heather Thomson: Hockley Valley is not a chain, and they just take. They don’t divvy to the kitchen staff or anything like that. It’s not a tip-sharing process that they have at Hockley Valley; they just take 33% and say, “Tough. This is how it is if you want to work here.” Of the other chains that I’ve worked at, this is the first chain that I’ve worked at where managers collect a tip-out. I find it to be quite ridiculous.

Mr. Toby Barrett: This additional income that comes in to the franchise owner, does he pay tax on that? Have you heard anything on that?

Ms. Heather Thomson: I would assume not. It’s cash; why would you?

Mr. Toby Barrett: I would assume not, yes. Okay.

Ms. Heather Thomson: I claim 15% to 20% of my income extra as tips. I kind of eyeball it, because it’s so much cash that you can’t keep track of—or my bank statements. But if you’re an owner taking the tips, why would you claim that you’re taking that?

Mr. Toby Barrett: When you fill out an income tax form, you have to identify tips on that?

Ms. Heather Thomson: Yes. We have to identify what we receive as extra income. We could be audited, and they go through all your bank statements and say, "Where did all this cash come from?" It's income, so I must claim it or be in trouble.

Mr. Toby Barrett: So I suppose, depending on the corporate structure, the owner maybe has to answer that question too, but maybe not. I don't know.

Ms. Heather Thomson: I would assume; I'm not privy to their taxes.

I worked at one East Side Mario's where they were audited by, I guess, Revenue Canada or something like that. Then the tip-out program was passed on to the staff. The managers collected it, and one of the staff members was elected to distribute it—because they were collecting that money but not paying tax.

Mr. Toby Barrett: So they went to pooling, without the percentage.

Ms. Heather Thomson: Yes. We were still tipping out, but we elected a member of our own staff every year to divvy up the money. All they did was throw it in a bucket.

The Chair (Mr. Garfield Dunlop): Thank you very much to the official opposition. Now the third party. Mr. Mantha.

Mr. Michael Mantha: I just want to say how much I admire your passion for this. I would love to be your customer. I can just imagine. I see your face and your smile, and it would be really an enjoyable morning coffee that I would have with you. I'm sure we would be on a first-name basis on a quick basis.

I've got one question for you. The broken dishes fee: If at the end of the year, you break no dishes, no cups, no saucers, no plates, no nothing, does that get returned to you?

Ms. Heather Thomson: It does not.

Mr. Michael Mantha: And that's a significant amount.

Ms. Heather Thomson: It is. I calculated it. If I work five shifts for 50 weeks, it is \$520 that I pay every year for broken dishes, whether I break them or not. Every staff member pays it, every shift, regardless; you must pay the \$2.

Mr. Michael Mantha: Previously, my colleague from the Conservatives asked a question. Could you clarify the 4%, how that is being deducted and who exactly it goes to?

Ms. Heather Thomson: Okay. At the end of my shift, I get an itemized read that says what I sold so that I can pay the restaurant all the money that I've collected in the evening. My sales will be gross and net. Gross is before tax, isn't it? I'll have to pay 4% of whatever I sold. If I sold \$695, I'll calculate, on my little calculator, 4% plus \$2. It's included in my cash-out, and they collect it. Then every few weeks, we get an envelope with some cash in it.

I'm a bartender; I also collect tip-out, and I give tip-out. The kitchen staff, the host staff—we all just get an envelope that says your name and some money. You

don't know how much money. You don't know how many hours it's based on. You don't know if it's short or if it's right. We missed a couple of weeks of tip-out because the owner didn't get around to doing it, yet it was still the same amount. Everybody's always left with the feeling of, "How did that money get distributed? Why can't we know? Why is it such a big secret?"

Mr. Michael Mantha: I look forward to the day we have a cup of coffee.

I'll let my friend Michael ask questions.

Mr. Michael Prue: Yes. I've only got a little bit of time here, but the management, when they ask for 4%, that's 4% of gross. I want everybody here in the room to understand that. On \$1,000 of sales, you pay \$40 to the management, and then you also have to give a certain percentage on top of that if you're tip-pooling with the buspeople or the bartender—

Ms. Heather Thomson: No; the 4% is the tip pool, but the management also collect a portion of the tip pool. When I get my envelopes and the kitchen gets their envelopes every two weeks, so does the management. They get an envelope. Their mom divvies it up to them.

Mr. Michael Prue: Now, the question about income taxes is a really important one. You have to claim that. Do you know of anything in the law that requires an owner who is taking cash to have to claim that?

Ms. Heather Thomson: To my knowledge, no, but I would imagine a business would be the same as personal. If you're earning income, cash or otherwise, you have to claim it.

Mr. Michael Prue: Well, okay. All right. I think that's a little naive.

In any event, have you seen employees get fired or demoted or get worse hours if they complain?

Ms. Heather Thomson: Not in my current position, but in other restaurants, yes, I have. You'll lose hours. Your hours are cut. If you don't want to tip out, if you complain about tip-out or if you have an issue with it, you just get less work until they don't need you anymore, and they just stop scheduling you. In a business like this, there's no severance, no contracts, no nothing. They give you two weeks' termination, and you're gone.

The Chair (Mr. Garfield Dunlop): That concludes your time. Thank you very much to the third party.

Ms. Heather Thomson: Thank you, everyone.

The Chair (Mr. Garfield Dunlop): Thank you very much, Ms. Thomson.

MS. SOEDI ANTONELLI

The Chair (Mr. Garfield Dunlop): We'll now go to the next presenter, Soedi Antonelli. Good afternoon. Welcome to Queen's Park. You have five minutes for your presentation.

Ms. Soedi Antonelli: I'm sorry; I don't have paperwork to show you.

The Chair (Mr. Garfield Dunlop): That's okay.

Ms. Soedi Antonelli: I'm going to try to explain what's happened to me and my experience. I'm a little nervous.

The Chair (Mr. Garfield Dunlop): That's okay. I'll just cut you off at five minutes, though.

Ms. Soedi Antonelli: And my English is not at 100%. I hope you guys understand what I want to say.

The Chair (Mr. Garfield Dunlop): Yes. Go ahead.

Ms. Soedi Antonelli: I have been working for the Pantages Hotel for the last 10 years, and we have 55% or sometimes 65% or 68% of our grats going to the hotel and to the managers. We get our payment biweekly.

Sometimes we don't have functions, because it's not a restaurant. We work on the third floor, and we have meetings. We serve coffee, and we fix lunch and dinners for them. The grats go in our cheques. At the end of the two weeks, they divide it, and a part of the grats goes to the managers, 25% to the hotel and another 3% to the hotel.

They say that money should be because of when you break stuff and to replenish the cutlery, but they never replenish anything. We have more work to do, because sometimes we have 100 people, and you don't have enough coffee cups to serve them. We need to go faster to clean, wash and put it back out to them, so that means they don't replenish anything.

My concern is that I don't think it's fair. They take 55% of our grats. Sometimes, like the last payment, we had \$16,000 for grats, and they took \$9,203; for us, just \$7,000 to divide with all the staff. So it's totally unfair, and we complain about it, but there's nothing you can do, right? Even if we have two days off, there is no function at all, they still charge eight hours each manager for our grats. So at the end, we have almost nothing. The managers got more grats than us because they are always there even if they don't have anything. They're still in their offices sitting down and get their money.

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So all my colleagues, we are really sad. But there's nothing we can do. That's why I came here. I try to fight a little bit for us because it's totally unfair. We have a union, but there's nothing they can do for us as well. We are fighting and fighting for nothing.

Six months ago, one of the managers went for a vacation, and they still got the grats. So I got this money back. Unfortunately, it was unbelievable.

They divide the grats even for two chefs in the kitchen and two managers of the floor. Some of them, they come just after lunch, so we're already tired from work, and the guy is coming just to show up for one hour, and he still got eight hours from our grats.

I swear I was praying for you guys to get that law to get the grats for us because it's not fair at all. You are doing the hard work, and they already got their portion, right? The grats are supposed to be for the waitress, not the manager or the hotel because they already got their big part. So I hope you guys could do something for us.

The Chair (Mr. Garfield Dunlop): Have you anything else to add?

Ms. Soedi Antonelli: I think I'm okay. I can give you some material after. I'm sorry; I just worked until 12.

The Chair (Mr. Garfield Dunlop): That's fine. We're now going to go to the official opposition. They'll start questioning, and they have three minutes, okay?

Ms. Soedi Antonelli: Sure.

The Chair (Mr. Garfield Dunlop): Mr. Barrett.

Mr. Toby Barrett: Thank you for talking about these grats. That refers to a gratuity charge that is charged to the person that rents the hall or the floor or whatever?

Ms. Soedi Antonelli: Yes.

Mr. Toby Barrett: Do you know, does it say on their bill how much it is? Like 15% or—

Ms. Soedi Antonelli: Yes, sometimes they're 55% of the grats.

Mr. Toby Barrett: It's 55%?

Ms. Soedi Antonelli: It's 58%, 64% and 65%—

Mr. Michael Prue: I think his question is, how much does the hotel charge for the gratuity?

Ms. Soedi Antonelli: Oh, 14%.

Mr. Toby Barrett: It's 14% to the customer?

Ms. Soedi Antonelli: Yes. Sorry.

Mr. Toby Barrett: Then on the bill, does it tell the customer what that extra money is for, why they're paying that extra money?

Ms. Soedi Antonelli: Not at all.

Mr. Toby Barrett: It doesn't say—

Ms. Soedi Antonelli: The bill says it's a grat for the staff, for the servers.

Mr. Toby Barrett: I see. This particular bill doesn't particularly address these kinds of gratuity charges, so that might require an amendment or a change to include that in there. I would think, at minimum, the bill should say exactly what the customer is paying for and why they're paying this extra money which, perhaps, would help people like yourself who are working in the industry. Would that help to have an amendment like that to make it more clear where this money is going?

Ms. Soedi Antonelli: Yes, they know. Usually, they never give any cash grats to us because that 14% already goes to the bill.

Mr. Toby Barrett: Goes to the what?

Ms. Soedi Antonelli: When they pay for it. They stay in the hotel, and everything was inclusive: their cost for the room, the food and the servers. They know they're going to charge 14% for the grats.

Mr. Toby Barrett: Yes. Just to clarify, how much of that money goes to people like yourself for tips?

Ms. Soedi Antonelli: Like I told you, it depends. It depends how many functions you have every week. The last payment, we had \$16,000 in grats, and \$6,000 went to the hotel. That means 25% plus another 3% to the hotel, plus \$2,900 goes to the managers. For the staff like me, the workers. We just got \$7,000 to divide each way for the whole two weeks.

Mr. Toby Barrett: All right, thank you.

The Chair (Mr. Garfield Dunlop): Thank you to the official opposition. We'll now go to Mr. Prue, of the third party.

Mr. Michael Prue: Thank you. I just want to clarify this because this is very common in banquet hotels:

There's a gratuity at the bottom, but most of the gratuity does not go to the servers. That's correct?

Ms. Soedi Antonelli: Yes.

Mr. Michael Prue: And in your case, it appears that about 60% went to the hotel or the managers and only about 40% went to the servers themselves?

Ms. Soedi Antonelli: Exactly.

Mr. Michael Prue: You work in a hotel that's unionized.

Ms. Soedi Antonelli: Yes.

Mr. Michael Prue: So you have some protection. I suppose that's why you're here speaking today.

Ms. Soedi Antonelli: Exactly.

Mr. Michael Prue: Okay. If you didn't have a union, would you be here? Would you be able to show up, or would you be afraid of being fired for saying what you're saying?

Ms. Soedi Antonelli: Not at all. I'd come.

Mr. Michael Prue: You'd come anyway?

Ms. Soedi Antonelli: I don't know. I don't think they know about us here. I've been there for 10 years.

Mr. Michael Prue: You're a brave woman, I have to say that.

The employees who share the 40%, the \$6,000, how many would that involve in the hotel? How many people share this \$6,000?

Ms. Soedi Antonelli: Something like 15 or 16 people.

Mr. Michael Prue: That's still \$400 a month.

Ms. Soedi Antonelli: Yes, biweekly, two weeks. Yes, but let's say—I'm the one full-timer. I've got more hours. But I can show you. I was working really hard to get this. I worked 87 hours, and in my last payment I got \$1,336 as grats, but I was working really hard for 87 hours. My managers got the same amount as me, and sometimes we don't even see them around the day, on the floor. That means the four of them got \$1,000 each just to show their faces for one hour.

Mr. Michael Prue: Why does the hotel think that they should get such a large amount for gratuity? What did the hotel do for the gratuity?

Ms. Soedi Antonelli: I swear I just talked to accounting last week. My concern is they get so much money, and they don't give anything in return to us. Like I told you, sometimes, we are rushing. We don't have glasses; we don't have coffee cups. I know it's a little boring, the conversation, but it's part of our job to have tools to work, to do better work. Sometimes it's a little hard for us to fix stuff because we don't have enough tools. They don't replenish. I think part of this money should be to replenish the material we need. We never got anything, and they don't say anything about it.

The Chair (Mr. Garfield Dunlop): Okay, that pretty well concludes your time. Thank you, Mr. Prue. Thank you so much for your time this afternoon.

Mr. Vic Dhillon: What about us?

The Chair (Mr. Garfield Dunlop): I'm so sorry; I apologize.

Mr. Vic Dhillon: It's okay, Chair.

The Chair (Mr. Garfield Dunlop): Go ahead. To the government members; sorry.

Mr. Vic Dhillon: Thank you very much for coming before the committee and sharing your experiences.

Ms. Soedi Antonelli: I thank you guys.

Mr. Vic Dhillon: You may have friends who work in a similar sort of setting in other places.

Ms. Soedi Antonelli: Yes, everywhere.

Mr. Vic Dhillon: Everywhere, okay. Is this problem everywhere?

Ms. Soedi Antonelli: Yes, is it. A friend of mine is working in two or three other places because they don't have enough hours at that one, at Pantages. It's almost the same thing. They don't know how they divide the grats. Some of them—like the Liberty Grand—pay you \$12 an hour, and the grats go to the managers. I don't know what they do with the grats. They just pay you \$12 and nothing else.

Mr. Vic Dhillon: And there's no sharing?

Ms. Soedi Antonelli: No sharing or anything, but they charge grats in their bills. When they charge the guest, they charge grats, but they don't pass this money to the servers.

Mr. Vic Dhillon: What do your customers think? I sometimes—maybe some of my other colleagues—I feel that servers, waiters, waitresses work very hard, and I know that it's not a high-paying job.

Ms. Soedi Antonelli: I believe they don't know.

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Mr. Vic Dhillon: Yes, and I always ask—not always, but a lot of times when I kind of get the feeling, “Will you be getting the tip?” Because if I'm going to pay on the credit card, I will give them a tip in cash. But do you feel that your customers know where the tip money is going? Do you think they have any—

Ms. Soedi Antonelli: No idea.

Mr. Vic Dhillon: So it's just a routine thing to fill out their charge slip?

Ms. Soedi Antonelli: Yes. They have no idea, because when the bill comes to them, they expect that 15% goes to the waitress, to the servers. But they have no idea the manager got her grats. Sometimes we have some customers that always come for the meetings, so you become like friends, like family sometimes. I know their kids; they show pictures; I never met them personally. But they share their stuff with us. But they have no idea. Sometimes they give me cash, but it's really unfair, even for them, because they already paid grats in the bill. But because sometimes they really love us, they give us some money, they put some money in an envelope and they give it to us. But it's fair, because they already know the grats go on the bill.

Mr. Vic Dhillon: Thank you very much. Unless—

The Chair (Mr. Garfield Dunlop): A quick question. You've got about 30 seconds.

Mr. Bas Balkissoon: You did mention about the managers being almost like permanent employees, and you touched on the staff in the kitchen, but you didn't

complete the sentence. In the place that you work, is the kitchen staff there full time?

Ms. Soedi Antonelli: We have two managers. One is the chef. One is a head chef. They control the food. So both of them get part of the grats, and another two managers, as the banquet managers, get the grats.

Mr. Bas Balkissoon: Okay, but the chefs are there full time. They work full-time hours.

Ms. Soedi Antonelli: Yes. One of them works there eight hours a day, but the other one, the big one, the big manager in the kitchen, they never show up. He even controls his schedule, because we are in a fight with the union because—

Mr. Bas Balkissoon: So do you have any idea—

The Chair (Mr. Garfield Dunlop): That concludes your time. You're quite a bit over.

Ms. Antonelli, thank you so much for your presentation today.

Ms. Soedi Antonelli: Thank you. I appreciate it.

PARKDALE COMMUNITY LEGAL SERVICES

The Chair (Mr. Garfield Dunlop): We'll now go to the next presenter, Parkdale Community Legal Services, Darcel Bullen. Ms. Bullen, welcome to Queen's Park, and you have five minutes for your presentation.

Ms. Darcel Bullen: Thank you for having me. I'm here today as a law student on behalf of Parkdale Community Legal Services and the Workers' Action Centre. I'm also here today as a worker born in Ontario who has previously received tips and gratuities in both the greater Toronto area as well as Whitby during the summer months in between my school year.

We know that work is leaving all too many workers and their families struggling with job insecurity and poverty. More people are working part-time or in unstable jobs offered in industries like the service industry, often juggling two or three jobs. We know that the majority of Ontario's more than six million workers in over 370,000 workplaces rely on employment standards, and only 28% of Ontario workers are unionized.

Employment standards set minimum terms and conditions of work such as wages, hours, vacations, and these standards reflect societal norms about what should be met in our job and labour market. Such norms include the ability to earn wages that are sufficient to live on and decent conditions of work that allow a person to balance work and family life.

The Employment Standards Act dictates that servers of alcohol are to be paid less than minimum wage based on the expectation that servers have guaranteed entitlement to their tips. Servers of alcohol in Ontario currently are entitled to at least \$8.90 per hour, which is \$1.35 less than the minimum wage in Ontario.

Thinking about servers of alcohol in light of Bill 49 and tipped workers reveals that the Employment Standards Act actually assumes that servers will receive tips that they earn, as demonstrated by their reduced hourly

wage. Bill 49 addresses this assumption that these tips will not be garnished by employers for their benefit alone, because tips are understood to be earned by the workers who earn them themselves. However, tipped workers only receive tips if their employers voluntarily comply with the intent of the Employment Standards Act. We believe that there should be no tipped wage at a lower rate than general minimum wage.

I just wanted to note that the Canadian Restaurant and Foodservices Association, in 2010, described that food service provides many Canadians with their first job and, "For 22% of Canadians, their first job was in the restaurant industry."

Many young people like myself, when I was 20 years old, started their working lives in a tip service job and perhaps, as a result of inexperience or power dynamics, are less equipped to assert their rights.

As a young person who has worked as both a bartender and a server, the majority of my coworkers were always under 25 years of age. Protecting the rights of young workers is specifically pertinent, considering that young workers aged 15 to 24 are currently experiencing higher unemployment rates than older workers, and this is demonstrated by a variety of research that we have included in our submission here today—by Statistics Canada.

The garnishment of tips results in an unjust payment system for service industry workers, many of whom are young, vulnerable workers, and it is clear to see why workers would be intimidated to ask their employers for the tips that they earn. Most workers are exposed to the risk of losing their only means of income if their employer decides to punish them for asserting their rights to asking for the moneys that they earn.

Right now, the tips that workers earn are currently slipping through the Employment Standards Act, which is a piece of legislation we want to be proud of as Ontarians. The language of Bill 49 allows for tips to be shared amongst workers entitled to them through tip-pooling, including dishwashers, servers and line cooks.

Not all restaurant owners and employers of tipped workers garnish tips. However, this fact alone is not a good enough reason to object to Bill 49 before you. Bill 49 will only affect those employers who are not acting in accordance with the spirit of the Employment Standards Act: to provide tipped workers with the moneys that they earn while working.

If the laws protecting the basic rights of workers in Ontario are dependent on the fact that tipped workers should get the money they earn, then it is also necessary for there to be parallel laws that set out these guarantees.

Tipped workers need laws that protect them and a ministry that workers can rely on. We need it for fairness, and we also need the government to make sure that employers don't just pocket tipped moneys from employees and then end up not paying taxes on them, because that, too, is unfair.

Tipped workers in Ontario and the families that rely on them for these wages should not live in fear. Ontario

is a great place to live, if you can afford to live here. We should value the hard work of people in Ontario by ensuring that all workers get a wage that they can live on. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much for your presentation, Ms. Bullen. We'll now go to the third party. Mr. Prue, you have three minutes.

Mr. Michael Prue: I just want to ask you a question because there has been a little bit of confusion, I think, around the issue. When an employer takes a portion of the employee's tips—like they put their hand in the jar, as simple as that, and take \$100 cash out of a bartender's tip; we heard that today—is it your experience or knowledge that those generally are not claimed on income tax?

Ms. Darcel Bullen: Of course. I think one of the difficulties is that any moneys that employers garnish from their tipped workers are not claimed, so we're losing that revenue as a government. Employees are not able to claim that, then, in their pensions. There really are detrimental effects to this non-taxable money that is almost disappearing without any regulation.

Mr. Michael Prue: Okay, so we know that employees, people who wait on tables and taxi drivers—if they get tips, they have to claim that on their income tax, and there's a whole formula based on around 10% of sales. They have to pay that. You are telling us that, in your experience and your knowledge, the people who reach into the jar and take the money, particularly if it's in cash, are not compelled to, nor do they generally claim it.

Ms. Darcel Bullen: I think that's the common understanding. I've never had an employer describe it differently. They feel like this is house money that they can distribute in a way that they see fit, rather than employers having earned it themselves. I've actually never worked in a tipped service position where part of my tips were not garnished. And as a young employee, to be honest, I just thought that was normal practice. It wasn't until I actually went to Osgoode Hall Law School and started working in labour and employment that I realized the severity of this problem, particularly for the sector, which is primarily made out of precarious jobs and young workers.

Mr. Michael Prue: Now, you work at Parkdale Community Legal Services, which does a lot of work with new immigrants and people just getting established in Canada. Would you think that this problem is severe amongst those 20% or 22% of young people who were not born in Canada, who might be taken advantage of in situations like this?

Ms. Darcel Bullen: Unfortunately, yes. The risk of reprisal is incredibly high when someone is asserting their rights to their employer and when their employment is their only means of income, not only for them but the families that rely on them. I think that some of the statistics we've included from the Canadian Restaurant and Foodservices Association—that 22% of Canadians describe their first job as in the restaurant industry—demonstrate how important it is to ensure that tips are

actually included in the moneys that tipped workers earn, because so many individuals are involved in industries that are tipped.

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Mr. Michael Prue: There are a number of other people who have been here today and are suggesting that it's okay for owners of restaurants, franchisee owners, to charge their employees the money that is paid to Visa for the use of Visa cards. Any suggestions on whether you think this is a legal practice, requiring the employees to pay the costs of doing business? I can't imagine if I worked in a factory, for instance, the employer coming along and saying, "You know, I had a big Visa bill this month, and I want you to pay the charges off it" or anything like that, but this happens all the time. Is this a fair practice?

Ms. Darcel Bullen: It seems unfair, and I think that the Ministry of Labour has clearly laid out in the Employment Standards Act that employers are not allowed to garnish wages for amounts that are not as a direct result of employee misconduct. Obviously, the cost of doing business is not misconduct, and an employee should not be unfairly punished for making their employer money.

The Chair (Mr. Garfield Dunlop): Thank you very much. That's your time for the third party.

Now to the government members: Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Ms. Bullen, for appearing before the committee today. Can you tell us how rampant this problem is in your community?

Ms. Darcel Bullen: It's incredibly rampant. Almost all the workers we see at Parkdale Community Legal Services are in precarious employment. They are working multiple jobs. They are working on contract. The service industry is notoriously precarious in that it's not full-time employment. Your job is never guaranteed. Industries are often rapidly changing, so this is a very important problem. It's not just in the service industry in terms of restaurants, but also across things like bartending and salons, which have been acknowledged by the Ministry of Labour to be vulnerable worker sectors.

Mr. Vic Dhillon: Do you receive complaints with respect to this specific issue, and if so, what's the frequency?

Ms. Darcel Bullen: We in the workers' division do Ministry of Labour claims. It's part of the issue that we address. We are overwhelmed with claims for workers who have not received basic minimum wage, \$10.25, or for servers who are not even receiving the \$8.90 that is bringing them up to \$10.25 because they're simply not getting their tips.

Mr. Vic Dhillon: How would this bill serve the people who are affected by this, your clients?

Ms. Darcel Bullen: We know that minimum wage in Ontario is \$10.25. If a worker is earning \$10.25, they're earning 19% below the poverty line in Ontario. All we're asking is for people to have a chance to bring themselves out of poverty, if they are working full-time, by earning a wage that sustains them and their family.

Mr. Vic Dhillon: We heard earlier today from one of the deputants that this problem should be left with the employer and the employee, and they can deal with it. What's your take on that?

Ms. Darcel Bullen: Statistics demonstrate that that's not a good solution. The Ministry of Labour issues over \$100 million worth of orders every year, and only half of that is ever paid back to employees who have orders issued in their favour. We know that employees are incredibly intimidated from filing claims. It's estimated that only 4% of Ontarians file a claim with the Ministry of Labour when the Employment Standards Act is violated, so suggesting that we should ask employees, who are incredibly vulnerable in a recession, to bear the burden of enforcement of laws in Ontario just means that the government isn't being held responsible for doing their job. It just seems incredibly unfair.

Mr. Vic Dhillon: Thank you.

The Chair (Mr. Garfield Dunlop): Thank you to the government members. Now to the official opposition. Toby?

Mr. Toby Barrett: Thank you for the presentation. Just to clarify, you're using the term "garnishing" tips. You're referring to the employer taking a portion of the tips? Is that what you mean by that?

Ms. Darcel Bullen: We're referring to an employee earning an amount through their hourly work and an employer deducting that from what they receive from customers.

Mr. Toby Barrett: In the form of a tip—in other words, taking their tips, or some of their tips.

Ms. Darcel Bullen: Taking the money that they earned from customers, yes.

Mr. Toby Barrett: Yes, I see. This whole business of a garnishee: Do you feel that tips should be included—maybe they are—in someone's wages if, through a court, they're under a garnishee order, say, for non-support, something like that?

Ms. Darcel Bullen: I work under some really great supervising lawyers, and we've had discussions about how complicated this issue is. I actually feel like I would want to let the legislative representatives deal with the complexity of that issue, because I understand in terms of the Canada Revenue Agency, it is quite complicated. I would rely on our political officials to make the decision.

Mr. Toby Barrett: You don't have a problem with tip-pooling or tip-sharing? What do you feel is the best way to try to fairly distribute tip income between, say, kitchen staff and servers?

Ms. Darcel Bullen: Right. I think it's interesting—the suggestion that if servers or tipped workers are entitled to their tips, they won't actually share it amongst other workers who are doing kind of back-house work, like dishwashers or line cooks, because actually, anyone interfacing with the public, with the customer, has a direct incentive to ensure that their work product is of a high quality, and the way that you do that is by valuing other people's work. So as someone who has worked in the industry, I know that if I were to have the ability to

receive all of my tips, it would be in my best interest and for my employer's best interest, actually, to ensure that everyone I'm working with gets a fair distribution of the tip money.

Mr. Toby Barrett: I represent a rural area. I have many very small restaurants or almost weekend restaurants—bed and breakfasts—so the person who serves you is the owner. Maybe it's a husband-and-wife team. Sometimes their son and daughter are working there, helping out on weekends. Now, this law would prevent them from receiving a share of the extra money I put on the table. Do you have a problem with that?

Ms. Darcel Bullen: I think—

Mr. Toby Barrett: They're doing the work. They're doing the cooking and serving.

Ms. Darcel Bullen: Right. I think that hypothetical scenario in which kind of a small, family-owned business doesn't get the money they need to keep them afloat doesn't really make sense in the context of the bill, because the bill only affects employers who are actually not providing the people who work for them with the moneys they earn. So I'm—

Mr. Toby Barrett: The bill prevents an owner from receiving any share of the tip.

Ms. Darcel Bullen: The bill prevents employers from taking away money from employees who earn that money. If their employees are working for them, or they themselves are the individuals interfacing with the public, then they're receiving that money. So I think the bill actually only affects individuals who aren't complying with the Employment Standards Act.

The Chair (Mr. Garfield Dunlop): And that concludes your time. Thank you very much.

Ms. Darcel Bullen: Thank you so much.

OTTAWA SERVERS ASSOCIATION

The Chair (Mr. Garfield Dunlop): We'll now go to the next presenter, which is the Ottawa Servers Association: Antonny Garcia and Michael Vorobej. Is that Antonny and Michael? You have five minutes for your presentation, gentlemen.

Mr. Antonny Garcia: Members of the standing committee, thank you for having us here today, and a big thank you to Michael Prue for his hard work and for his perseverance on this bill.

I'm Antonny Garcia from Ottawa, representing the Ottawa Servers Association. I'm the founder and CEO.

For some technical reasons, my presentation today was going to be a written submission, but I will take questions on how I'm describing this terrible rip-off that is taking place in our industry.

Mr. Michael Vorobej: Okay. Hi there. I would like to just quickly direct everyone's attention, if that's possible, to this document, Bill 49, Protecting Employees' Tips Act, the second one.

On the fourth page, what we've done here is a mock-up of a typical banquet hall invoice. No one attends more banquets than MPPs and other political figures. You're

the guest speakers; you're doing fundraisers. So no one attends more banquets, yet apparently, no one knows less about what actually happens.

So in this document, what we have is the Nameless Banquet Hall. It's located in Anywhere, Ontario. Today's guests are the Blameless Political Party. The menu is the inevitable chicken luncheon. It's for 80 people. The menu is salad, chicken, chocolate cake. You get coffee or tea. The price per person is \$30. You're going to pay a 15% gratuity on that, and then you're going to pay HST on that. So we've done the numbers: It's \$2,400 plus a \$360 gratuity, and the HST is there as well, totalling over \$3,000. If you turn the page, we've got a couple of potential outcomes for the actual workers who are there.

By the way, I've got 25 years in this business, so I pretty much know what I'm talking about here, if I may say.

So you've got four banquet servers who come to work at 9:30 in the morning to begin to set up the lunch. They work until 2:30—everyone is gone and the speeches are over—and they clean up the last dirty dish and remove the last table cloth. So that's 20 hours total labour performed by these people.

So in scenario number 1, each server works for the Ontario minimum wage, for \$8.90, and shares equally in the \$360 gratuity. The total gratuity divided by 20 hours equals \$18 per hour, so their wage plus gratuity is \$26.90 per hour of taxable income. I've tried to use average figures, realistic figures, in this. Okay? You see the total earnings of \$538.

1400

Here's scenario number 2. Scenario 2 is far more common in this bent industry in which I work than scenario number 1 is, and I choose my words very carefully, by the way.

Scenario number 2: It's the same price, everything, same gratuity, but this banquet hall pays a flat rate of \$14 an hour. I haven't found the lowest figure in the province. Some do pay less; some may pay a bit more. In this example, 20 hours of labour are worth \$280, which is \$80 less than the value of the gratuity itself. Okay? Effectively, the banquet hall isn't paying minimum wage. They're actually getting free labour and having 80 bucks to do with as they please afterwards.

Going over to the next page, again what we're looking at is a 50% loss of income for Ontario workers, and this is the majority I'm talking about now, not the minority. This is the majority. At \$14 an hour, you're not paying a lot of income tax, if any. You are probably eligible for many government subsidies and you're not really able to participate in the economy. You are probably not going to drive a car—not that I'm advocating that everyone drives a car, but you don't even have that option; probably a bus pass is expensive for you.

So what we want to see here and what we, through our investigations—I haven't heard the word "Newfoundland" mentioned today, because Newfoundland has laws protecting as well. Other than banquet servers, you are the most overworked and underpaid people in the prov-

ince. I'm going on the record for that. So what you don't need to do, please, is reinvent the wheel here again. You don't need to reinvent the wheel. There's lots of good, clear legislation out there. Okay? It's out there and you need to tap into it, please.

What we need is clear, unambiguous protection for tips, gratuities and service charges: anything that an honest customer pays at the bottom of their bill, either on the invoice or by cash, thinking that that is a "tip," in common language. That needs to be protected by our Employment Standards Act so that more of us can afford the train fare to come down to Toronto and take a day off work and appear for 15 minutes in front of a committee hearing and, you know, take some interest in politics and things instead of working three or four jobs.

I know our time is limited, so we will welcome any questions. I would also just refer to the fact that the letter at the beginning of this document has already been sent to you in email form once, but you get a lot of emails, so we've put it on paper this time. It deals with the issues in a lot more detail.

But I'm telling you, this industry is going down the drain. I started off in a place, as the minimum wage worker, getting some tips, making a half-decent wage, and that building, which is a pretty major facility up in Ottawa, is now totally bent and no one makes a decent wage there anymore. The job I did in the 1990s is a McJob now.

The Chair (Mr. Garfield Dunlop): Thank you very much for your time. We'll now go to the government members. You have three minutes for your questions.

Mr. Vic Dhillon: You mentioned that a majority of the workplaces are in this practice. Have you done any sort of research or do you have any data on that?

Mr. Michael Vorobej: I can tell you that, other than the unionized facilities—and I must add for the record that all workers should be protected by this legislation. I just found someone who has a worse union contract than I did, this lady back here. But yes, I can tell you that major facilities in the city of Ottawa that have been built in the last few years—including one that Antonny used to work at, where he lost a job because he asked about the gratuity situation there and was summarily fired thereafter—are now building it into their business plan. They will put a price and they will put a gratuity on their paper menus, their website menus, and then they will not pass along the gratuity. They will be in category 2 of our sheet. They will be paying a flat rate of \$12, \$13 or \$14 an hour, which is less than the value of the gratuity, and they'll be pocketing the rest.

Basically what they do, just so everyone understands, is that that's either pure profit for the owners or, instead of paying their managers and chefs a decent management salary, they pay them a half-measure salary and take the rest out of the tip jar. That's the industry practice now.

We, today, work in a facility which was originally built by the people of Ontario, the people of Canada and the people of Ottawa in terms of financing that facility, and when that building opened in the 1980s, 50 cents of

every dollar went to management. That was their winning formula for success. Okay? So that's a government-owned facility. I won't mention the name today.

Mr. Vic Dhillon: I don't know if you were here, but there was an inference made that these types of issues are better left to the employer and the employee and can be dealt with at that level. What's your opinion on that?

Mr. Michael Vorobej: For decades, all political parties in this province have maintained a two-tier minimum wage: one for regular workers and one for servers in our industry. The industry has had decades to police itself and has failed—I can't even find the word—immeasurably to police itself.

Now you're actually at a point where you're at a competitive disadvantage if you don't steal the tips, because if your chicken dinner is 30 bucks and his is 30 bucks, and you keep the extra \$4.50, that's all in your bottom line. The other guy, who is just treating his workers half decently, is at a competitive disadvantage. This is a chronic problem. We're not here to talk about the whole industry; we're focusing on one piece of legislation today. If you want to call an inquiry into the restaurant industry, I'll book another ticket on Via Rail and I'll see you again. It's a big problem, big facilities.

I can tell you the worst story—I can't miss this opportunity—of a friend who was a long-time cook in a big church banquet hall that was like a commercial establishment attached to a church. In that church banquet hall, which probably holds 700 or 800 people for banquets, maximum, they paid the priest out of the tip jar. So there's no shame. This is money. We're all adults in this room; there's no one under 18. There's no shame when it comes to money. That's why we need a government. That's why we need laws.

The Chair (Mr. Garfield Dunlop): That's the time. We'll now go to the official opposition. Mr. Barrett?

Mr. Toby Barrett: Thank you for coming over to testify. We've been hearing about gratuity charges this afternoon, and you say we need a law. This proposed legislation, Bill 49, from my reading of it—and it doesn't take long to read it—does not address the automatic gratuity charges. I'm asking myself, what do you feel we would do? Does it require an amendment indicating that automatic gratuity charges—it's listed on the bill; that's a start, anyway. It lists the per cent. Is that what it usually does?

Mr. Michael Vorobej: Typically, yes, they do. Typically, it's 15%, but some places are a little bit higher now.

Mr. Toby Barrett: Is this not going far enough, with respect to more transparency or disclosure, to itemize it, to indicate what per cent is going to the house?

Mr. Michael Vorobej: In my view, I have not yet encountered a person—and we've done petitions as well, because we've been at this for a year and a half—outside of the industry who has a clue that this is going on. We've been on the radio. We've talked to reporters. We've been on TV. No one knows this is going on, both in the restaurants where there are cash transactions or in the gratuity banquet halls, hotels etc.

In my view, it's a misrepresentation. It's a consumer affairs issue as well, beyond a workers issue, but it's a misrepresentation and that's the way the industry would like to keep it. They'd like it to be ambiguous.

My God, until I did my research, I didn't even know that PEI had restaurants and banquet halls that they would need a law for this, but apparently they do. We'd be the fifth province—and their language is very clear, because it protects the client as well as the workers: Any charge—a tip, a gratuity, a service charge, anything that a reasonable individual would believe is a tip to be paid to the servers—should go to the servers.

For the record, we do pool our tips where we are. We share amongst the workers etc. That is not the issue. The issue is that you are not in a bargaining position with your employer to determine how much of the tips he gets. Once he decides he wants tips, he calls the shots. That's the power arrangement in a workplace.

Mr. Toby Barrett: Somehow you've got to track that. I think of wedding parties or church groups or organizations that book a hall. I guess they're not in business. There is no fine print for them to read. It just says, "Pay this per cent." It's called a gratuity; I don't know how that's defined under law. So it's not enough to at least itemize it?

Mr. Michael Vorobej: Consumers don't think they need a law. It's clear; it's plain English. What they're paying is a tip. The fact of the matter is that businesses are taking advantage, and the more they do, you're just getting a domino effect. The more people who do this—it gets to the point where people can't afford not to get involved in the same rip-off because the guy down the street is doing it. Everyone is charging the same price for the chicken dinner. That's the problem; it's the domino effect.

Again, it's high time that the province of Ontario stepped in and erased this, because in this province we need people with jobs. We've got people with jobs who can't pay taxes or don't pay taxes because they're not making enough; they're not getting on the tax rolls. I pay the province, the federal government and even my municipality before I ever see a dime of my pay—that's where I work—and that's fine. We want more people like that, not less.

The Chair (Mr. Garfield Dunlop): We'll now go to the third party. Mr. Prue.

Mr. Michael Prue: I have two questions. The first one is to Mr. Vorobej. The Ontario Restaurant Hotel and Motel Association is coming up two speakers after you, and they have suggested—I'm going to read from what they sent to us: "Automatic gratuity charge placed on bills mostly by banquet and hotels can be distributed to the 'house'"—that is, the owners—"as long as it is called a facility charge—we at this point are recommending an alternative name ... perhaps 'facility service charge.'"

1410

They want this changed so that it doesn't look like it's a gratuity—

Mr. Michael Vorobej: It sounds to me like they're trying to muddy the waters. If you pay for a brake job on

your car, and you don't get new brakes, you're being ripped off. If they just looked at your old brakes and charged you for new ones anyway, that's a rip-off. The charges have to be clear. Again, you will see language in other legislation in other jurisdictions, but the charges have to be clear.

That is a very slippery slope. If you say "facility charge" or whatever—if there is no gratuity, then people can pass the hat like they did in the old days. But you can't leave the customer the impression that they're paying a tip when they're actually not paying a tip.

Mr. Michael Prue: It seems to me that they've acknowledged that it isn't a gratuity, so they've been collecting the money using the wrong name, anyway.

To Mr. Garcia, a statement was made that you were fired from your job for complaining about employers skimming off the tips that were intended for servers. Could you tell us your own circumstance and what happened?

Mr. Antonny Garcia: Yes. I worked in a place for banquets, serving, in 2006 in Ottawa. That's how I got involved in this fight. It's personal. Nobody wanted to go to management because everybody was scared. Workers in that building were not allowed to speak about unions or tips. They were stealing the whole 15% service charge and using it to cover labour costs and pay managers.

Then I said, "No, I'm going to go alone." Nobody wanted to go with me because they knew already what would happen. I went to management and asked a question about that, if the 15% service charge was supposed to be passed over to the servers. The thing is, soon after, I lost my job for speaking out. I'm not going to mention the name of the place right now; that's not the case.

The Chair (Mr. Garfield Dunlop): You've got 30 seconds.

Mr. Michael Prue: If I could just ask, do you know of other people that this has happened to as well? When they speak out, they get fired, or when they complain about—

Mr. Antonny Garcia: They all got fired. I got a small group, and I started to talk to them about what was going on and about bringing the union inside. Then everyone who was with me lost their job after. They brought the union, but they ran a campaign inside the building to buy everyone and to scare all the employees. More than half of the employees were scared. They said, "If I vote yes, I'm going to lose my job." The vote was no, so the union couldn't pass.

The Chair (Mr. Garfield Dunlop): That concludes your time today, gentlemen. Thank you very much to the Ottawa Servers Association.

Mr. Michael Prue: Thank you for coming.

MS. CINDY VASSER

The Chair (Mr. Garfield Dunlop): We'll now move to the next presenter, Cindy Vasser. Welcome to Queen's Park, Ms. Vasser. You have five minutes for your presentation.

Ms. Cindy Vasser: Thank you kindly, Chair and members of the committee. Thank you very much for this opportunity to share my experience, opinions and suggestions with you. I personally believe that Bill 49 is a most fair and much-needed bill.

I am in the hospitality business and have been for numerous years. This practice of tipping out to the house did not exist in my experience until I started working at my current restaurant of employment. Currently, if our net sales are over \$300, we tip out 3.5% percent. The breakdown is 1.5% to the kitchen, 0.5% to the bar and, much to my shock and horror, 1.5% to the house—for what, I really don't know. I find this practice to be akin to theft. Why am I paying someone for the privilege of working for them? Is this done in other jobs? I don't think so.

Some national chain restaurants have tip-out totals of up to 5.5%. Why would a restaurant such as Bâton Rouge, with annual sales of \$10 million at the Eaton Centre, steal from their staff, basically? Where does that \$300,000 that they get per year in tipping out to the house go? Is it claimed with Revenue Canada? I doubt it. Do all owners claim this income that they get from tipping out to the house to Revenue Canada? That's doubtful. I've even heard of tip-outs as high as 9% from people I know in the industry. I have been told by the kitchen staff I work with that they have never received payouts of tips, so in fact, the house is taking 3% of my hard-earned money that most customers think is going to me for my great service. It is my belief that the general public is being deceived and does not know this practice exists.

I should like to mention at this time that if a customer does not tip at all—and believe me, this happens—then, in fact, I as a server am subsidizing whatever they happen to ingest. That's outrageous. I also tip the bartenders and kitchen, even if they are slow or make me an inferior product, which in turn reflects upon my tip.

Also, part of my sales that I'm tipping out on the house includes staff meals, sales not tipped on, and take-out, which customers rarely tip on, yet I tip out on all of those things. Knowing that the kitchen does not actually get the tip payout where I work, that would mean that the house gets 3% of my tips. That money adds up to a lot in a week, a month and a year.

My paycheque, with the meagre \$8.90 hourly wage, goes to pay my rent, my tips, all my other bills and expenses, and Toronto is not a cheap place to live.

The job of a server is fast-paced and sometimes stressful. No matter what is going on in our personal lives, we are expected to be happy, gracious and always smiling. As front-of-house staff, unlike the kitchen staff—who usually get paid more, by the way—we are seen as a reflection of the establishment we work for. Therefore, we are expected to be clean, presentable, well groomed and neatly dressed in the required uniform. That does not come cheap nor easily.

Most important of all, the main job of a server is to be an outstanding salesperson. The successful server is one

who knows their product well so as to make suggestions and upsell, which in turn enhances the customer experience and revenues for the restaurant and government. Without sales, there are no tips and the restaurant will cease to exist, yet with the practice of tipping out the house, the server ends up getting financially penalized for increased sales.

Some restaurant owners seem to think that our tips are simply fun money and free to be taken through many methods of gouging servers, such as paying a per-shift breakage fee. Some establishments actually charge a server for the replacement costs of a broken item, yet dishwashers are not charged for breakage because they don't make tips. Shouldn't breakage be considered an unfortunate part of doing business?

In restaurants where a set uniform with a company logo is required, the servers pay a marked-up retail price, not the wholesale price.

Some restaurants make the servers pay a percentage of their total credit card tips to make up for the percentage charged to the establishment by the credit card companies.

We are made to pay for mistakes, like food and drinks that were made that were incorrectly rung in and shortages in our inventory.

And while it is against the Employment Standards Act, the server pays in full for any walkouts or dine-and-dash, in my experience.

I emailed my concerns to my MPP, who happens to be Premier Kathleen Wynne. I received a reply in which it was suggested that in the future, perhaps tips should be pooled. Well, just as staff at our Premier's office come with many different skill sets, education and work experience, so do servers. I find the suggestion of tip-pooling to be insulting and considered without much process, especially considering that not everyone shares the same workload or ethic. Do we expect the salaries of those in the Premier's office to be pooled? I think not. Do salespeople pool their commissions? Hardly. Tell me what jobs pool their wages and salaries.

What I would like to see is:

- a complete end to tipping out the house, period;
- a province-wide set tip-out percentage of net sales minus any non-tipped amount going to bartenders and kitchen staff and paid directly to the bartender by a server;
- accountability and proof that the kitchen does, in fact, get their tip-out, and not the house;
- in the case of busboys and hostesses, they should also be paid directly by the server;
- perhaps even, as in DineSafe, a posted notice on the front door of an establishment stating what the tip-out is.

On a final note, while many critics think servers make a huge amount in tips, a week ago I walked out of a six-hour shift with \$7 in tips. I have worked shifts from 8 a.m. to 3:30 a.m. straight without a break. I have also worked every weekend and statutory holidays for the last year. We work shifts the general public wouldn't. Therefore, there is no way any restaurant operator should be

allowed to put their hands on my hard-earned wallet for their own profit or to top up salaries of their kitchen staff.

While I don't mind sharing with the team that assists me with putting out a great product and service, I feel this practice needs to be regulated by passing Bill 49. I have lost a lot of money this year and I'm sick of being pillaged.

I thank you very much for your time.

The Chair (Mr. Garfield Dunlop): Thank you very much.

We'll now go to the official opposition. You have three minutes.

Mr. Toby Barrett: Thank you. As we continue on in the afternoon, it seems to get more complex. I get the impression that so many restaurants have different approaches; even perhaps staff, talking with the owner, work out different ways of doing it.

So you're not opposed, in general, to tip-pooling or tip—

Ms. Cindy Vasser: Oh, I'm opposed to it, yes.

Mr. Toby Barrett: Tip-pooling and tip-sharing?

Ms. Cindy Vasser: Yes. Sorry: tip-sharing, no; tip-pooling, yes.

Mr. Toby Barrett: Okay. I've got to look up that definition again. So tip-pooling, you're in favour of?

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Ms. Cindy Vasser: No. Heaven's, no—

Mr. Toby Barrett: I've got to get this clear. That's a no—

Ms. Cindy Vasser: —because not everybody's work ethic is the same and not everybody works as hard.

Mr. Toby Barrett: I do hear that from people. There would be, say, two servers and one works harder than the other—

Ms. Cindy Vasser: Absolutely.

Mr. Toby Barrett: And then that discrepancy—someone working in the kitchen, and by law they have to be paid minimum wage.

Ms. Cindy Vasser: At least, yes. Quite often, some are paid a lot more.

Mr. Toby Barrett: Yes, of course, hopefully, in a prosperous business.

Ms. Cindy Vasser: And they don't have to be presentable as we do, the front-of-the-house staff. They can come to work looking like whatever.

Mr. Toby Barrett: Yes, but I like to think that most restaurants, the kitchen staff, if they aren't making more, get some of the share of the tip.

Ms. Cindy Vasser: Oh, absolutely. I'm not against that at all. It's all part of the teamwork.

Mr. Toby Barrett: So if we were to make any change to this law—and the law is one sentence, as you know—what would you recommend we change? Or does the law cover it?

Ms. Cindy Vasser: As I mentioned, even perhaps if there was a set percentage to be tipped out—from my tips, the bar gets 1%, the kitchen gets 1%, a busboy quite often gets 0.5% and a host gets 0.5%. I'm fine with that. We're all part of a team. But for the money to go to the

house—do they claim that with Revenue Canada? In a month, that's the price of my expensive asthma medication so I can breathe. I don't have benefits. Most people in the restaurant business don't have any benefits. I could use that money, quite frankly. But to go to the house doesn't make sense to me. Why am I paying somebody to work for them? And what are they doing with that money?

Mr. Toby Barrett: There is the one concern about a very small restaurant where it's an owner and sometimes they bring someone in part-time on the weekend—the owner gets the tips, especially if they're the only one there. If the law says that owners don't get tips, we're just concerned about unintended consequences.

The Chair (Mr. Garfield Dunlop): Okay, your time, Mr. Barrett, is up.

Mr. Toby Barrett: Yes, thank you.

The Chair (Mr. Garfield Dunlop): We'll now go to the third party. Mr. Prue?

Mr. Michael Prue: Just to clarify: The law does not say that owners don't get tips; it says they can't take their employees' tips. There's a difference. Anyway, I wanted to ask you the question: We have uncovered restaurants where people come in and take out food. They don't eat it there. They come and they get it in a Styrofoam container and take it away.

Ms. Cindy Vasser: Right.

Mr. Michael Prue: We've also uncovered where some employees, the servers, are required to pay a percentage of gross to the management on takeout food.

Ms. Cindy Vasser: Correct.

Mr. Michael Prue: There's no chance that you're going to get a tip.

Ms. Cindy Vasser: Generally, no.

Mr. Michael Prue: Generally, no. So if somebody comes in and takes out, say, \$40 worth of food and you have to pay 4%—because somebody put it in a Styrofoam container, you have to pay the manager \$1.60. Have you run into this?

Ms. Cindy Vasser: That is correct. I didn't make the food but I just carried on the transaction.

Mr. Michael Prue: All right. You carried on the transaction but you have to pay 4% of gross?

Ms. Cindy Vasser: Absolutely.

Mr. Michael Prue: Okay, and there's virtually no chance that you're going to get a tip?

Ms. Cindy Vasser: Generally, no. I would say, 85% of the time, no.

Mr. Michael Prue: Okay. I just want to clarify, because I want to make sure—I think my colleague here was having a little bit of difficulty. You are in favour of tip-sharing because you think you should be giving money to the busser, the hostess, the bartender and maybe, possibly, to the kitchen. You are opposed to tip-pooling, which I think in your case you mean that all the money goes into a pot and everybody shares it equally, so that if a waiter or waitress is doing a crummy job, they get a percentage of your tip, and you don't think that's fair.

Ms. Cindy Vasser: Correct, and they may have only worked for two hours in the shift, yet I worked for eight hours. So, no, it's hard to have fairness in that.

Mr. Michael Prue: Okay, because when you first started to speak I was going to say you would be the first person I have ever met from the restaurant industry, a server, who didn't think it was fair to share with the other people who are doing a good job.

Ms. Cindy Vasser: No; I do.

Mr. Michael Prue: Okay, but I think it was very clear what you were saying.

How long have you worked in the restaurant industry?

Ms. Cindy Vasser: Off and on—mostly on—about since 1980.

Mr. Michael Prue: Okay, so we're looking at 20-plus years.

Ms. Cindy Vasser: Correct.

Mr. Michael Prue: Okay. There were some people earlier today who said that this is not a widespread problem and pooh-pooed other people saying that 50% or 60% of restaurants have some form of tip-out to the employer. They said it wasn't even as high—when I suggested 10%, it probably wasn't that high. You're in the industry a long time, what percentage do you think it is?

Ms. Cindy Vasser: I think it's about 1.5% of the house.

There's an interesting website, Toronto Servers Review Restaurants, or something similar to that. I'm sorry. I think your office knows about that. There are people who come on that site who talk about all the different restaurants in the Toronto or Ontario areas and what the tip-out is, what they're made to pay for their uniforms, what they have to pay if their credit card slips aren't signed and whatnot.

Myself, I'm just finding, in talking to the people I know and going on that site, that this tipping to the house has become far more rampant than it was when I started in the industry. When I started in the industry, it didn't exist. It seemed to come up when we started getting more international and national chains: Moxie's, Baton Rouge and whatnot, and then the little guy—I work for a private restaurant owner—jumps on it, thinking, "Oh, well, other places are doing it. I'm going to do it, too." Of course the staff isn't going to say anything because they're just happy to have a job. There are a lot of people looking for work in the restaurant business. It's hard to find a job in that business right now. So we just kind of sit back and don't say anything about it, don't ruffle the feathers and just carry on paying. But like I said, I need that money for my medication.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the government members. Mr. Balkissoon: three minutes.

Mr. Bas Balkissoon: Thank you, Mr. Chair. A couple of clarifications: You started out by saying that you would rather keep all your tips and you make the decision to remunerate the bartender and the kitchen staff?

Ms. Cindy Vasser: No, no. I want to physically hand it to them as opposed to it going on a sheet of paper and

in my deposit, and then I don't know if in fact it all goes—what is intended, if it goes to the bar, if it goes to the kitchen. I know in my place of work right now, it doesn't go to the kitchen.

Mr. Bas Balkissoon: Okay, but who's going to verify that an employee does it or doesn't do it?

Ms. Cindy Vasser: Yes, that's what I'd like to know.

Mr. Bas Balkissoon: Okay. Because that's the one that puzzled me.

Ms. Cindy Vasser: Me too.

Mr. Bas Balkissoon: You did say you didn't mind if there's a formula about the—

Ms. Cindy Vasser: No, actually; a fair formula, no, I don't mind.

Mr. Bas Balkissoon: —you know, to give to everybody, a fair formula, but the house shouldn't be included. I think my colleague on the other side made several references to where the owner might be the chef and he has an employee who's the server and maybe you've got a host and a hostess. I don't know. How do you deal with it when the owner is part of that working staff?

Ms. Cindy Vasser: Etiquette states that owners don't get tipped, first of all—common etiquette. Although, if a chef is also the owner, actually as in my case, I don't mind tipping him out as the chef because he provided me, hopefully, with a great product, but—

Mr. Bas Balkissoon: How do we cover that in a piece of legislation?

Ms. Cindy Vasser: Well, I brought a—I'm not sure—

Mr. Bas Balkissoon: Yes, I got it. I got the sheet.

Ms. Cindy Vasser: In that, in a tip-out form—

Mr. Bas Balkissoon: So it would be a formula for the kitchen?

Ms. Cindy Vasser: —within our deposit.

Mr. Bas Balkissoon: So whoever works in the kitchen, whether it be owner or anybody else, they would be part of the tipping?

Ms. Cindy Vasser: Correct.

Mr. Bas Balkissoon: Okay. Go ahead, Vic.

The Chair (Mr. Garfield Dunlop): Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for appearing before the committee today. Can you tell me how widespread the practice is of the employers taking tips from—

Ms. Cindy Vasser: Tipping to the house?

Mr. Vic Dhillon: Yes.

Ms. Cindy Vasser: You know what? I would have to actually talk to everybody in every place. All I know is that it does happen. It shouldn't happen. If you go on to that website that Michael Prue knows about, people give you a breakdown of how much goes to each of these places that have sales in the millions of dollars a year.

Mr. Vic Dhillon: Would you be okay with the idea of a manager taking the money and pooling it, and then divvying it up amongst the staff?

Ms. Cindy Vasser: What? All the tips I make?

Mr. Vic Dhillon: Yes.

Ms. Cindy Vasser: I would have a big problem with that; absolutely.

Mr. Vic Dhillon: Can you elaborate on that?

Ms. Cindy Vasser: I can elaborate on that in the way that the customer's intention is to give the money to their server. We're front end. We have to be happy. It doesn't matter whether a relative died that morning, we have to come in. We have to be happy. I come in when I've got pneumonia. I've come in when I'm really sick with a migraine, whatever. So, you know, I work for my tips, and that is what my customers intentions are, to give me the tips, not—

The Chair (Mr. Garfield Dunlop): That concludes your time, Mr. Dhillon. Cindy, that concludes your presentation as well. Thank you very much.

Ms. Cindy Vasser: Okay. Thank you.

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ONTARIO RESTAURANT HOTEL AND MOTEL ASSOCIATION

The Chair (Mr. Garfield Dunlop): We'll now go to the final deputation of the day, the Ontario Restaurant Hotel and Motel Association. We have Leslie Smejkal, the vice-president of government relations; Tony Elenis, the president; and Terry Mundell, the president of the association. You folks have five minutes for your presentation. Welcome to Queen's Park.

Mr. Tony Elenis: Thank you. Good afternoon. My name is Tony Elenis. I am the president and CEO of the Ontario Restaurant Hotel and Motel Association. With me are Leslie Smejkal, our government relations manager, and Terry Mundell, president and CEO of the Greater Toronto Hotel Association. We're also joined here by various hospitality operators that support our recommendations.

Bill 49, Protecting Employees' Tips Act, 2013, is one line of legislation, and we all can agree it requires significant amendments before passing into law. It is important that the committee today understand a little bit about Ontario's hospitality industry before proceeding with Bill 49.

The ORHMA is Canada's largest hospitality provincial association that represents the interests of 11,000 accommodation and food service sectors. The hospitality industry is a significant component of Ontario's economy and character, yet it is vulnerable to economic volatility.

The minimum wage increases of 2008-09 impacted a great deal of suffering. Make no mistake about it, the hospitality industry has changed, with more of its leadership wearing many hats and performing many work tasks, and sustainment being at top of mind for most operators. This limits business growth and job growth.

Besieged by rising labour as well as food and energy costs, restaurant operators continually battle with the threat of shrinking margins, operating on a 2.5% pre-tax margin of profit in full-service restaurants—the lowest in our country—while the accommodation sector across Ontario operates on 50% reduction in profit margins since the year 2000. It's not about revenue growth anymore; it's about pressure from the expense lines forcing

changes to operations, including the role of most managers and owners.

With the long list of economic challenges faced by the hospitality industry, we ask that the government display compassion and amend Bill 49 to ensure the employer is protected of standard practices that are fair, easy to understand, simple to implement and not hinder business growth in Ontario. Gratuities are intertwined in a complex structure. ORHMA is calling for the following amendments to Bill 49.

We are calling for tip-pool sharing to be allowed for support employees, including kitchen workers. This promotes a team spirit and supports the entire team's work and success. This position supports the overall service experience with coordinating, cleaning up and preparing meals.

Today's culinary evolution has led to many open-kitchen concepts and professional plate presentations. Back-of-the-house, traditionally a name assigned to positions such as cooks, are now the main reason for the customer draw and experience. This has brought a new translation to who supports the customer service experience.

We are calling for managers and employers to be allowed to be part of the tip-sharing mix, as long as they contribute to the service operation. Here, the role of employer needs to be defined, as many independent operators work as greeters, as chefs, as servers and as buspersons. Primarily, due to the slim margins, owners are continually wearing many hats to make ends meet.

Tip-pool sharing is a key component of the employee-employer relationship and provides an opportunity for all involved in the service to benefit from the investments made while strengthening teamwork in this highly regulated and competitive industry.

We are calling for the automatic gratuity charge, currently placed on bills for functions, events and services by mostly banquets and hotels, to continue to include the house in the distribution. There are many forms of employee and employer relationships, including union and non-union negotiated contracts and incentives, many in the form of bonuses, wages, benefits and all types of perks. To review and analyze gratuity structures, one needs to review and analyze the whole package. Gratuities are but one component of the total compensation package. Employees take into account all components, and a change to one will result in an imbalance of the others.

We are calling for an exemption to the credit card markup fee tip portion, where employers are able to keep the cost portion, as the employers pay the tip whenever customers settle their bills by credit card. Based on the number of transactions, this expense can be significantly high. This is backed by the Competition Bureau of Canada, which estimates \$5 billion per year is paid in markup fees, the highest in the world.

To conclude, we expect the government will continue to consult with our industry to ensure that Bill 49 is fair and not onerous for our industry. Thank you for your consideration and time.

The Chair (Mr. Garfield Dunlop): Thank you so much for the presentation. We'll now go to the opposition. Mr. Barrett.

Mr. Toby Barrett: I'm trying to wade through the study that you've been working on, here. You indicate that in the vast majority of cases, servers who receive tips, the actual hourly wage is really only 50% of what their total compensation is. In some cases, tips are up to 80% of what they earn.

Mr. Tony Elenis: In many cases—and I refer to a study, which is going to be passed around to you, completed by the University of Guelph. We see total wage is 10% to 15%, even, of the total compensation for a server.

Mr. Toby Barrett: And then the rest is tips. Then the person working in the kitchen, unless there's pooling, doesn't accrue that benefit.

Mr. Tony Elenis: Agreed.

Mr. Toby Barrett: We've only got a few minutes. What very specific action steps would you like to see taken? What specific amendments would you suggest to this legislation? The legislation is one sentence. It's opened up a can of worms. There are other issues that have come forward. How can we improve this legislation?

Mr. Tony Elenis: The amendments, as I said earlier, that need to be added: that there is tip-sharing that includes employers and managers because of the complex structures there; that the gratuities on banquets and hotels are protected; and the ability for the employer to keep a portion of the markup fee that is added on anyone paying by credit card, because the employer pays the markup fee portion of the charge. It's revenue-neutral; they don't make dollars on it. It's approximately 1.5%, perhaps.

Mr. Toby Barrett: On credit cards, isn't there, hopefully, a federal initiative, where the banks are going to be forced to—

Mr. Tony Elenis: Well, that's the markup fees, yes, to reduce them. But we're referring here to the actual procedure of a credit card settlement to pay for the invoice or the food bill that includes the gratuity on it. A gratuity goes on the markup fee.

Mr. Toby Barrett: I'd like to see the banks give you a fair shake on that rather than the waiters and waitresses, myself. I think there's work being done on that. It's not under the provincial purview.

Mr. Tony Elenis: But that's to reduce the markup fees. When someone settles a food invoice in a restaurant, on that tip, basically, there's also the charge of the markup fee on the credit card.

Mr. Toby Barrett: That's right. They have the tip on top of it.

Mr. Tony Elenis: Right. That's the difference.

Mr. Toby Barrett: Thank you, Chair.

The Chair (Mr. Garfield Dunlop): We'll now go to the third party. Mr. Prue.

Mr. Michael Prue: I would like to thank your organization. You've come a long way, since I first put this in,

in terms of understanding what it's trying to do and your own response to it.

First of all, I think you understand that there is no intent in this bill whatsoever to end tip-sharing. The only intent of the bill was to make sure that the owner does not take a percentage of the employee's tips as a condition of their continuing to work there. You've probably heard some of the people describe what happens to them when they object.

But I do want to ask here about the automatic gratuity charge; I think you were in the room when I asked the workers from Ottawa, who said that they thought this was a slippery slope and used other words. Why is it important to change "gratuity"? Is that because people are thinking that it is a gratuity, and you want them to think it's now a service charge so that they won't think it's a gratuity? You still want to charge it.

Mr. Tony Elenis: First of all, thank you for seeing us along with the operators that we have in the room. We are looking at that wording, and we're suggesting something that makes sense. We still have not defined what the actual wording is. The suggestion we had was to change the word "gratuity," but keep the word "service" in there somehow. It's something that we need to talk about a little bit more, the exact name on it. We've actually made a call to many of our operators to give us suggestions on the name, and as this process moves on, hopefully we'll have more input to add to it.

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Mr. Michael Prue: Visa cards and things—you talked about that. I know Visa charges a different amount depending on how much money—a small restaurant might pay up to 5%, maybe even more, but the big chains probably pay 1.5%, 2%. On a \$100 bill, the waiter or waitress gets \$15. Why the big deal around this? You're asking the waiter or waitress to pay 30 cents. I don't understand why the restaurants think they need to recoup that 30 cents.

Mr. Tony Elenis: First of all, it's by scale. Larger food service companies probably have better provider deals with the credit card companies or the merchants, but on a smaller scale, for that smaller, independent restaurant, that 50 cents means a lot more, probably, than the \$2 to a larger one. It goes by scale.

Mr. Michael Prue: And this is going to make the difference whether the restaurant succeeds or doesn't?

Mr. Tony Elenis: Well, it's dollars coming out of the employer paying the gratuity portion.

Mr. Michael Prue: You also gave me this thing prepared by the University of Guelph, and I have seen it before. It's quite a confusing piece of work. They confuse tip-pooling with tip-sharing, with tip-outs, with everything under the sun. But part of what they do say here is, "It is worth noting that there are also situations where restaurants take a portion of the money for other uses such as, to cover the cost of 'dine-and-dash' or breakage, to recoup the cost of credit card fees or simply take a 'house share.'" Are these things fair for employees to cover?

Mr. Tony Elenis: We're only referring here to the credit card fees, and I think it is also noted in the report that this happens rarely.

Mr. Michael Prue: Well, he thinks it happens rarely. That is not the evidence that I—

Mr. Tony Elenis: I'm sticking to the report.

Mr. Michael Prue: All right.

The Chair (Mr. Garfield Dunlop): Folks, that concludes the time for the third party. We'll now go to the government members. Mr. Balkissoon?

Mr. Bas Balkissoon: You started out your presentation by indicating that you wanted managers to be included in the tipping process. There was a deputant before who said that the servers were there—and she gave an example of five hours for a particular event at lunch time—but the manager showed up at the end for one hour, and he collected as much in tips as they did. Do you think that's fair?

Mr. Tony Elenis: It will depend on the structure of the house, of the restaurant. There are many complicated matters that will make that decision.

If you want to get more complicated with this, if a manager wants to take tips out of a server, they can give fewer tables to that server, or those customers who come in and perhaps order more meals and tip more—

Mr. Bas Balkissoon: No, I want to remain with the banquet hall where the service charge is on the big bill. You have five servers for the event. The manager only shows up at the end just to make sure that everything is okay. He was there for an hour, but all the employees were there for five hours. How much in tips should the manager get? Should he get the full five hours like the other employees or should he just get for one hour?

Mr. Tony Elenis: It depends on the formula that is designed.

Mr. Bas Balkissoon: Okay, but where should the formula be designed? At the local level or in the legislation?

Mr. Tony Elenis: It should be designed at the local level.

Mr. Bas Balkissoon: Okay. Go ahead.

The Chair (Mr. Garfield Dunlop): Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much.

Mr. Tony Elenis: Sorry, to get back to that, it depends on what other work that manager has done to support the servers. There is a lot more work done before you open the doors for customers to walk in.

The Chair (Mr. Garfield Dunlop): Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Chair. Thank you very much for coming before the committee today. We've heard over and over today that there's a high turnover in the restaurant industry of staff. Don't you think that if efforts were made to ensure that more of the tips remain in their pockets, it would be financially beneficial to the restaurant, instead of hiring people and training them again? Don't you think that would be a better business model?

Mr. Tony Elenis: We believe in sharing it fairly. As the member at the end of the table mentioned, what about

the other workers? What about the support staff? We believe that tips—those support individuals—

Mr. Vic Dhillon: I'm speaking about the house part, where the house gets a cut.

Mr. Tony Elenis: If the manager or the owner is part of the service support, they should be part of that portion.

The Chair (Mr. Garfield Dunlop): That concludes your time, to the government members.

Mr. Elenis, that concludes your time for your organization. Thank you very much for your presentation today.

Ladies and gentlemen, that concludes Bill 49 until next week, when we have clause-by-clause at 12 o'clock on—

Mr. Bas Balkissoon: Mr. Chair, before we leave—

The Chair (Mr. Garfield Dunlop): Yes, we've got a couple of other things.

Mr. Bas Balkissoon: Yes, but I would like research—there was an indication that other provinces have passed legislation. If that could be sent to us before we do clause-by-clause or as soon as possible, so it would have some consideration.

The Chair (Mr. Garfield Dunlop): Okay. Is there any problem with that? Okay.

Mr. Bas Balkissoon: Can we pick a date to get it by? By Monday afternoon, since we'll be dealing with this next week.

The Chair (Mr. Garfield Dunlop): Can you get that in for—

Interjection.

The Chair (Mr. Garfield Dunlop): Excuse me; explain again what you'd like.

Mr. Bas Balkissoon: There was one deputant who said that other provinces—I think he said Newfoundland, and there might be others—have already brought legislation—

Mr. Michael Prue: New Brunswick, Prince Edward Island. You don't have to do the research; come to my office.

Mr. Bas Balkissoon: There you go.

Ms. Lisa MacLeod: Plus, he has baked goods there.

Mr. Bas Balkissoon: Circulate that to all of us by email. Can we get it by email before, maybe say, Monday midday?

The Chair (Mr. Garfield Dunlop): That's fine.

If I may, to the committee members—

Interjections.

The Chair (Mr. Garfield Dunlop): A little quiet here. We've got clause-by-clause of Bill 49 ahead of us, and we have Bill 106, which has been passed to our committee; that's the francophone bill. Personally, as the Chair, I'd like to get both those bills cleaned up in this session. Whether we get to third reading or not on the francophone bill, I don't know.

But I'm just asking, would anyone be interested in laying out a format? The francophone bill is very short. Ms. MacLeod.

Ms. Lisa MacLeod: I'll speak both as the Ontario PC francophone affairs critic as well as the Vice-Chair; I wear a double hat here. My hope is that we could clear

the deck with this bill so it could go back to the House before the end of the session. Given that we were dealing with the programming motion and then some decisions by this committee, the committee was a bit backlogged.

My hope, Chair, is similar to yours: that we would consider one of two options as a committee, and we can do this at subcommittee. Two options: One would be to do public hearings next week, either splitting the time with this bill after clause-by-clause and going immediately into public hearings, or having a second day for that; or alternatively, meet regularly on Wednesday for public deputations and then again Thursday morning, if we could get support from the House leaders in order for us to do that.

I know that you have spoken with the minister; I have spoken with the third party critic. I think it's everyone's desire to see that bill proceed as quickly as possible, given the limitations that we did have with the committee and the backlog that we had with respect to the programming motion and the decisions made by the committee early on in the year.

The Chair (Mr. Garfield Dunlop): The other option would be on the afternoon of December 11, which is when we're scheduled to do the francophone bill, based on the motion that Mr. Crack brought forward. At this point, we only have three deputations. If we have the three-hour afternoon, I'm thinking we could even do clause-by-clause late in that day if we wanted to, because it's just one line, if anybody's interested in doing that as well.

I'd just like to get some direction from the committee, see how people feel about that. Or else that bill stays over—

Ms. Lisa MacLeod: Well, can we put that forward as a motion now?

The Chair (Mr. Garfield Dunlop): It's just basically discussion at this point. If someone will make a motion or whatever—does anybody from any of the other parties have any comment on this? Mr. Prue?

Mr. Michael Prue: I don't have any problem with what's being suggested on the 11th, and I don't even really have any problems with using whatever time is left over next week, if we can finish this bill quickly. I am not sure that we can, because I don't know what amendments are being brought forward from everyone else. I anticipate, and I have told people this, a number of amendments coming from the government, because I have talked to the Minister of Labour—

Mr. Bas Balkissoon: Because the bill is too simple.

Mr. Michael Prue: It's too deceptively simple. But I do want to finish, and I'm hoping we can finish this bill on the next occasion. If there is a half-hour left over, I certainly don't have any problem—

The Chair (Mr. Garfield Dunlop): The problem is, we have to advertise and change the date. So I think we'd better not interfere with the date that's scheduled next week. I'm thinking of the three hours we would have on the 11th or going to the House leaders for another morning or whatever it may be.

Ms. Lisa MacLeod: So I put forward a motion, then, that we would sit—

Interjection.

Ms. Lisa MacLeod: You're no fun.

The Chair (Mr. Garfield Dunlop): Mr. Balkissoon?

Mr. Bas Balkissoon: I don't have a problem with dealing with a francophone bill, but I'd rather the committee work very clean. Maybe we should finish Mr. Prue's bill next week and the following week look at the Wednesday and ask the House leaders for us to meet Thursday morning and finish the francophone bill, so that it'll be finished.

Ms. Lisa MacLeod: Can we then direct, through one of my colleagues—because right now I'm subbed out of this committee, but I'm here. Is it possible for someone on this committee to direct the Chair to write a letter to the House leaders with that as a proposal, for Wednesday the 11th and Thursday the 12th, so that the committee may report back on Thursday the 12th in the afternoon?

Mr. Bas Balkissoon: Just move the motion.

The Clerk of the Committee (Mr. Trevor Day): She can't.

Ms. Lisa MacLeod: I can't move the motion. Can you move the motion?

Mr. Michael Prue: I move it.

The Chair (Mr. Garfield Dunlop): So Mr. Prue has moved it—

Mr. Bas Balkissoon: And I disapprove of it because it's his bill.

The Chair (Mr. Garfield Dunlop): Let me make sure I'm clear. We have the afternoon of the 11th for committee hearings, and you're giving me authority to write the House leaders for permission to meet on Thursday morning for clause-by-clause. That's the motion.

Mr. Bas Balkissoon: I say we finish this bill.

The Chair (Mr. Garfield Dunlop): Bill 106 is not going to interfere at all with next week.

Mr. Bas Balkissoon: Okay.

Ms. Lisa MacLeod: Chair, may I ask, with respect to the folks at Hansard, if they may translate this discussion that we have just had into French, because we've had the conversation in English—that part of Hansard.

The Chair (Mr. Garfield Dunlop): We'll do our best to do that.

Ms. Lisa MacLeod: Thank you.

The Chair (Mr. Garfield Dunlop): So we've got a motion moved by Mr. Prue. All those in favour of that motion? That's carried.

Thank you very much, committee, and we'll see you next week for clause-by-clause at 12 o'clock.

The committee adjourned at 1452.

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Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Wednesday 4 December 2013

Journal des débats (Hansard)

Mercredi 4 décembre 2013

Standing Committee on the Legislative Assembly

Protecting Employees'
Tips Act, 2013

Comité permanent de l'Assemblée législative

Loi de 2013 sur la protection
du pourboire des employés



Chair: Garfield Dunlop
Clerk: Trevor Day

Président : Garfield Dunlop
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 4 December 2013

Mercredi 4 décembre 2013

*The committee met at 1206 in committee room 1.*PROTECTING EMPLOYEES'
TIPS ACT, 2013LOI DE 2013 SUR LA PROTECTION
DU POURBOIRE DES EMPLOYÉS

Consideration of the following bill:

Bill 49, An Act to amend the Employment Standards Act, 2000 with respect to tips and other gratuities / *Projet de loi 49, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les pourboires et autres gratifications.*

The Chair (Mr. Garfield Dunlop): We'll call the meeting to order. We're here today to discuss the clause-by-clause of Bill 49.

Interjection.

The Chair (Mr. Garfield Dunlop): We have a number of amendments, as Trevor has just mentioned. I'd like to ask each of the caucuses if they would like to have an opening statement. I'll start with Mr. Prue, who is the mover of the bill. Would you like to make any kind of an opening statement, Mr. Prue?

Mr. Michael Prue: A very short one, because I want to make sure that we get finished today. We only have three hours.

I'd like to thank the members for coming out today. I'd like to thank both the government and the official opposition for their thoughts on the bill and for putting in amendments that, in most cases, will strengthen the bill. I do have some concerns, but we'll get into those in the debate.

I want to say that there are many, many servers out there—hundreds of thousands of them—who have been looking forward to this for a long time, and I'm hoping, through the committee process, that we can come to the best possible decision and go forward with the bill. It would be very nice if there could be some unanimity, after we've discussed all the various options, and that it go forward in whatever iteration it finally ends up in. Thank you very much, Mr. Chair.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Prue. Would the government members like to make an opening statement? Nothing? Okay. The official opposition? Mr. Barrett.

Mr. Toby Barrett: Yes, thank you, Chair. I've just received the government motions, so I haven't had a

chance to read them, but I'm heartened to see that it looks like there are some definitions here in the government motions. I think that's important, because the legislation that we're looking at is one sentence. That concerns me. It concerns me kind of in the same way that a one-day piece of legislation, on occasion, gets passed, and I don't think that's a good idea. I am concerned when we have a piece of legislation where there's only one sentence. Even 100 years ago, legislation that came before this Legislature in Upper Canada was much shorter than a lot of the legislation now, but I don't know whether there was any one-sentence legislation.

There weren't any definitions in there, and I think it is important that we pin down just what we are talking about with these various words like "employer" and "tipping" and "tip-out." One dictionary, Merriam-Webster, defines a tip or a gratuity—again, another word for a tip, and I know that banquet halls seem to talk more about gratuities than tips. Again, a tip or gratuity is something given voluntarily or beyond obligation, usually, for some service. It seems to be a—it has become a social norm. Certainly I see it in Canada and the United States. It doesn't really seem to be related anymore to the level of service that you're getting from the server, when I refer to the restaurant industry, or the level of service that you get from the cook in the back kitchen or the person washing the dishes, where it's even more difficult to determine the level of service.

The level of service in a taxi cab—I don't know. With me it sometimes relates to the quality of the conversation or the interest in the conversation that you have riding a cab, if you're interested in conversation.

The level of service with a haircut: I guess that's something we all measure. Many of us usually have the same person over and over again, and that probably has an influence on how much we tip.

There are a lot of countries that I've travelled in—you don't tip. It's not considered part of the social norm, regardless of the level of service.

Tips and wages, when you compare the two—certainly, in the restaurant industry, as I understand, tips are a very significant component of the amount of money that does change hands. In chatting with people in the industry, in many cases for the front-line server it can represent a very significant amount of their total compensation, their total salary; oftentimes they make more money in tips than they do in their actual wages. There's

an estimate in Canada that tips represent something like \$4 billion a year in Canada—

The Chair (Mr. Garfield Dunlop): Are you—a lot of these things you can—

Mr. Toby Barrett: Did I run out of time?

The Chair (Mr. Garfield Dunlop): No, we just asked for a short opening statement. These are things you can all discuss after in different parts of the bill, so can you just kind of wrap it up there?

Mr. Vic Dhillon: Do you do that at caucus?

Mr. Toby Barrett: Actually, in caucus I am fairly brief.

The Chair (Mr. Garfield Dunlop): I just want a brief opening statement on it and I'd like you to wrap it up and then we'll get into the amendments.

Mr. Toby Barrett: Okay. I should ask, Chair, is there a time limit?

The Chair (Mr. Garfield Dunlop): There's not a time limit on anything, but we just had a short opening statement. That's all I'm asking for.

Mr. Toby Barrett: Yes, okay.

The Chair (Mr. Garfield Dunlop): I wasn't expecting a 15- or 20-minute opening statement. In fact, I'm sorry. You can speak up to 20 minutes at a time at any point during this. If you want to go on, I guess you can possibly do it. But I just was hoping you could do an opening statement so we can get on with the amendments. Go ahead.

Mr. Toby Barrett: I do know, with respect to the definition of an employer—I mean, I was just talking about the definition of tipping—that there was some confusion in this committee as well and there is confusion out there as far as at what point an employer should receive a portion of a tip. I know the NDP feels that this sentence, this one-sentence bill is very clear on that, but I do know out there that there is some confusion and some concern. Maybe that concern isn't warranted because it is only one sentence, but I do appreciate what the government is doing in this first amendment. I haven't had a chance to read much of it, but they are laying out some definitions. I think that's very important. I don't think this committee should have its name attached to a piece of legislation that really isn't clear on what these definitions are. Do you see anything you want to talk about? I didn't set my watch for—

Mr. Jack MacLaren: Are we going to have another opportunity?

The Chair (Mr. Garfield Dunlop): You're going to be able to speak to every amendment.

Mr. Jack MacLaren: Okay.

The Chair (Mr. Garfield Dunlop): All right, so that concludes the opening statements by everyone. I'm now going to go into the first motion, which is section 1, government motion 14.1. You will have to read it, by the way—whoever is moving the motion.

Mr. Vic Dhillon: The whole thing?

The Chair (Mr. Garfield Dunlop): You'll have to read the whole thing, yes.

Mr. Vic Dhillon: All right. I move that part V.1 of the Act, as set out in section 1 of the bill, be struck out and the following substituted:

“Part V.1

“Employee tips and other gratuities

“Definition

“14.1(1) Subject to subsection (2), in this part,

“‘tip or other gratuity’ means,

“(a) a payment voluntarily made to or left for an employee by a customer of the employee's employer in such circumstances that a reasonable person would be likely to infer that the customer intended or assumed that the payment would be kept by the employee or shared by the employee with other employees,

“(b) a payment voluntarily made to an employer by a customer in such circumstances that a reasonable person would be likely to infer that the customer intended or assumed that the payment would be redistributed to an employee or employees;

“(c) a payment of a service charge or similar charge imposed by an employer on a customer in such circumstances that a reasonable person would be likely to infer that the customer assumed that the payment would be redistributed to an employee or employees; and

“(d) such other payments as may be prescribed.

“Same

“(2) ‘Tip or other gratuity’ does not include such payments as may be prescribed.

“Prohibition re: tips or other gratuities

“(3) An employer shall not withhold tips or other gratuities from an employee, make a deduction from an employee's tips or other gratuities or cause the employee to return or give his or her tips or other gratuities to the employer unless authorized to do so under this section.

“Statute or court order

“(4) An employer may withhold or make a deduction from an employee's tip or other gratuities or cause the employee to return or give them to the employer if a statute of Ontario or Canada or a court order authorizes it.

“Exception

“(5) Subsection (4) does not apply if the statute or order requires the employer to remit the withheld, deducted, returned or given tips or other gratuities to a third person and the employer fails to do so.

“Pooling of tips or other gratuities

“(6) An employer may withhold or make a deduction from an employee's tips or other gratuities or cause the employee to return or give them to the employer if the employer collects and redistributes tips or other gratuities among some or all of the employer's employees.

“Employer etc. not to share in tips or other gratuities

“(7) Subject to subsections (8) and (9), an employer or a director or shareholder of an employer may not share in tips or other gratuities redistributed under subsection (6).

“Exception—sole proprietor, partner

“(8) An employer who is a sole proprietor or a partner in a partnership may share in tips or other gratuities redistributed under subsection (6) if he or she regularly

performs to a substantial degree the same work performed by,

“(a) some or all of the employees who share in the redistribution; or

“(b) employees of other employers in the same industry who commonly receive or share tips or other gratuities.

“Same—director, shareholder

“(9) A director or shareholder of an employer may share in tips or other gratuities redistributed under subsection (6) if he or she regularly performs to a substantial degree the same work performed by,

“(a) some or all of the employees who share in the redistribution; or

“(b) employees of other employers in the same industry who commonly receive or share tips or other gratuities.

“Transition—collective agreements

“(10) If a collective agreement that is in effect on the day section 1 of the Protecting Employees' Tips Act, 2013 comes into force contains a provision that addresses the treatment of employee tips or other gratuities and there is a conflict between the provision of the collective agreement and this section, the provision of the collective agreement prevails.

“Same—expiry of agreement

“(11) Following the expiry of a collective agreement described in subsection (10), if the provision that addresses the treatment of employee tips or other gratuities remains in effect, that subsection continues to apply to that provision, with necessary modifications, until a new or renewal agreement comes into effect.

“Same—renewed or new agreement

“(12) Subsection (10) does not apply to a collective agreement that is made or renewed on or after the day section 1 of the Protecting Employees' Tips Act, 2013 comes into force.

“Enforcement

“(13) If an employer contravenes subsection (3), the amount withheld, deducted, returned or given is a debt owing to the employee and is enforceable under this act as if it were wages owing to the employee.”

The Chair (Mr. Garfield Dunlop): Thanks very much, Mr. Dhillon. Did you have any explanation on that?

Mr. Vic Dhillon: Yes. This just summarizes what's in the bill and clarifies our position on some of the issues that we discussed.

Mr. Bas Balkissoon: It's more details than the one sentence.

The Chair (Mr. Garfield Dunlop): Okay, so that's your explanation right now?

Mr. Vic Dhillon: Yes.

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The Chair (Mr. Garfield Dunlop): Debate on the amendment? Anybody?

Mr. Toby Barrett: Debate on this amendment?

The Chair (Mr. Garfield Dunlop): Which he just read.

Ms. Cindy Forster: What's the amendment?

The Chair (Mr. Garfield Dunlop): The whole thing.

Mr. Toby Barrett: Is there a time limit on reading amendments?

The Chair (Mr. Garfield Dunlop): Yeah. He wasn't 20 minutes.

Any questions on this? Debate on what he just—

Mr. Toby Barrett: So we do have a definition of a “tip or gratuity,” which looks like it's the same—it's defined as the same word in this legislation. It's a little different than what I was reading here. I guess my question is, we also have to debate an amendment to this particular motion in the next amendment from the NDP.

The Chair (Mr. Garfield Dunlop): There are four or five amendments now, I believe, on this—

Mr. Toby Barrett: Yeah, there's four or five, but I notice this one's a little different. The next amendment is an amendment to this particular motion.

The Chair (Mr. Garfield Dunlop): Right.

Mr. Toby Barrett: It's not an amendment to the one sentence as such, I guess.

The Chair (Mr. Garfield Dunlop): That's right. That's correct.

Mr. Toby Barrett: So what is the process?

The Chair (Mr. Garfield Dunlop): We've got a motion. We're debating that motion right now, which he read, and we're asking each caucus to make a comment on it. There may or may not be amendments, but it looks like there will definitely be amendments to this one because I see five of them on my list here.

Mr. Toby Barrett: But we would vote on this first and then we discuss—

The Chair (Mr. Garfield Dunlop): No.

Mr. Toby Barrett: We don't vote on this?

The Clerk of the Committee (Mr. Trevor Day): No.

Mr. Bas Balkissoon: No, on new amendments first. If you have an amendment, move it and we'll—

The Clerk of the Committee (Mr. Trevor Day): Okay. So what we have now is, we have an amendment to the bill on the floor. Members will have an opportunity to speak about that amendment. In the course of that debate, a member may move an amendment to that amendment, and Mr. Prue has signalled his intention to move a number of them. When he has the floor, he'll have an opportunity to move one of these, but until he does, there's an opportunity to debate this particular amendment in the current form.

Mr. Toby Barrett: So the NDP should probably make their motion before we vote on this, or does that matter?

The Clerk of the Committee (Mr. Trevor Day): What will happen is, should they move an amendment to this, we will vote on any amendments to the motion and then, at the end of that, we will vote on either the motion in its current form or as amended by one of those if they should pass.

Mr. Toby Barrett: Okay, and then we discuss it further—

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Toby Barrett: I see.

Mr. Jack MacLaren: So we're going to discuss this amendment and then vote on it?

The Clerk of the Committee (Mr. Trevor Day): No.

The Chair (Mr. Garfield Dunlop): No. We're going to—

The Clerk of the Committee (Mr. Trevor Day): We're going to discuss this amendment for a time. There will be an opportunity for any member to move amendments to it and then discuss those, and we will vote on each one of those as they come up. When the committee has no further amendments to this particular amendment, then we will vote on this amendment in its perhaps new form or in the form that it's in now.

Mr. Jack MacLaren: Okay.

Mr. Toby Barrett: I've just received this, so I don't know whether we had time to consider any amendments, as the NDP did, to this particular government motion.

Did you just get this now?

The Chair (Mr. Garfield Dunlop): Any further—

Ms. Cindy Forster: No, I got this from my office when I came out of the House.

Mr. Toby Barrett: Okay.

The Chair (Mr. Garfield Dunlop): Do you have any other further comments?

Interjection.

The Chair (Mr. Garfield Dunlop): I'm going to go to the third party, Mr. Prue.

Mr. Michael Prue: Yes. If I could just assuage some fears here that I'm hearing from my colleagues in the Conservatives, when the bill was proposed I knew the bill was very simple. I knew that the bill would never survive as a one-sentence bill. This was not the intent. The intent was to engender discussion, to have people come forward and to listen to deputants, which we did. The deputants came forward and clarified to my mind, and I'm sure all of the committee members' minds, exactly what needed to be contained within the body of the bill.

There were many, many discussions, and then the government, who had been studying this bill for some time, and the ministry, who had been studying it for some time, came to me and said that they had the amendment substantially as here. I did not receive a copy of the amendment until yesterday or the day before yesterday, and immediately went to the legislative counsel, Julia Hood, who is here with us today, and said that I had some concerns and wanted to make amendments to what I understood the government was going to put forward in the final bill.

I'm given to understand from Mr. Balkissoon that he too has an amendment that he wants to put in as well, which the Clerk is now indicating they have. I'm hoping that it can all be wrapped together. I don't think that there are too many controversial things here.

There is one question I would like the government to answer when we get down to, or if we get down to, section 8, because there is no definition of "substantial degree," and there is none in law, because I've already

checked that through Ms. Hood. So I want it on the record what that means, because if a court were to try to determine that, they would want to know what the Legislature intended under those words, "to a substantial degree." I want to ask that at some point.

I'm hoping that we can just go through it maybe line by line or motion by motion. I do have some questions. I'm in the Chair's—

The Chair (Mr. Garfield Dunlop): You can amend the motion now.

Mr. Michael Prue: Do you want me to put my motions in now?

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Michael Prue: All right. Then I will put mine in—

Ms. Cindy Forster: One at a time.

Mr. Michael Prue: One at a time.

The first one is NDP motion v.2.

I move that section 14.1 of the act as set out in government motion 1 be amended by adding the following subsection:

"Same—employee representative

"(6.1) If an employer collects and redistributes tips or other gratuities under subsection (6), an employee representative chosen by the employees of the employer shall be present for and shall participate in the collection and redistribution."

If I might, Mr. Chair—

The Chair (Mr. Garfield Dunlop): Please explain.

Mr. Michael Prue: The rationale for this was that when the employees came here to give deputation, they talked about the employer, in some circumstances, taking the money away, and then they simply got a pay packet with an amount in it. They didn't know how it was distributed. One deputant said that the cooks who were supposed to receive a 1% or 2% cut from those tips had never received anything.

I am mindful of what they do in the province of Quebec and I asked Ms. Hood to look that up. The province of Quebec mandates that where the tips are divided up, a representative of the employees is present to make sure they are satisfied that everybody is getting their cut and that the employer is not keeping it. So this is still allowing the employer to collect the money, but having an employee present to make sure it's distributed fairly.

The Chair (Mr. Garfield Dunlop): Okay. I'll now go to the government members. Those are your comments, then, Mr. Prue?

Mr. Michael Prue: On this particular one, yes.

The Chair (Mr. Garfield Dunlop): Would you like to make any further comments on it?

Mr. Michael Prue: Just on that point? No, I'm just explaining what it is.

The Chair (Mr. Garfield Dunlop): Okay. I'll now go to the government members. Do you have any questions or concerns?

Mr. Vic Dhillon: No concerns. That's fine. We agree with that amendment.

The Chair (Mr. Garfield Dunlop): Okay. We'll go to the official opposition.

Mr. Toby Barrett: With respect to this amendment to the government amendment, the employee representative, that has a nice ring to it. Like I say, I just got this list of amendments. I commend the NDP for whipping this up so quickly on the government amendment, but I've got to consult with somebody before we decide how we're going to vote on this, because I just got this.

The Chair (Mr. Garfield Dunlop): Well, we're voting on it today. I mean—

Mr. Toby Barrett: I know we're voting on it today; I'm just saying I want to talk to somebody first before we vote on it.

Mr. Michael Prue: If I could, I have no objection; I mean, if we could deal with all of them and if my friend wants a 20-minute recess to consult before votes, that's standard practice in most committees and he's more than entitled to it, if he needs to know after hearing the discussion.

The Chair (Mr. Garfield Dunlop): No one has asked for a recess. I'm just—

Mr. Michael Prue: Okay. So if I can go, then, with your permission, Mr. Chair, to the next one?

The Chair (Mr. Garfield Dunlop): We've got Mr. MacLaren first.

Mr. Jack MacLaren: This is certainly worthy legislation. The amendments seem fine. I think we all appreciate that tips, tipping for service, especially in bars, restaurants, things like that, even taxis, is a very important part of a worker's income.

A friend of mine was a server in a bar and she explained to me how it used to work. They did have pooled tips. She would mix drinks behind the bar. There would be other girls who would serve drinks to the customers, and there would be the people at the door that would usher customers in. They had kind of a system where she would get tips at the bar, waitresses out on the floor would get tips, and the doorman, or whatever the proper title for that fellow was, would get no tips. So—

Ms. Cindy Forster: The bouncer.

Mr. Jack MacLaren: The bouncer? Well, of course he'd get tips because he's bigger than everybody else. But that's a different kind of justice, much quicker than what we do here.

1230

So they would have a system that would try to create a fair sharing of the payment, because most of these people are paid a low wage with the expectation that there would be tips. There was an honour system that you explained to me where they would count up at the end of the night how much was sold by the waitress and the drinks server, and they would contribute a percentage of that to, maybe, the owner of the bar or the restaurant, and of course they would trust him to do the right thing. What this legislation is doing is addressing exactly that question: doing the right thing and being fair.

The intention with this girl I know was that the money would actually go to the servers, the drink mixers and the

bouncers, and it may well have, but I'm not sure. In fairness, it seemed to be a good system that was in place, where the owner would collect the money, because you needed some kind of central person. He would collect a portion from the drinks server and the waitresses, and then distribute what should go to the bouncers and the others who didn't get their fair share. That seemed to be a working thing.

Of course, with taxi drivers, it's sort of considered an appropriate thing to do to give them a tip for service offered. Most of us here make pretty good use of cabs in the work we do. We have to move around town and travel, and most of us, I think, are pretty generous when the person who's driving the cab provides good service and is pleasant and, at the end of the time, we're satisfied with the service we receive—you know, the man was polite and considerate, his car was clean and appropriate, and he didn't take the long route around to take us where we wanted to go. Most of us, I think, are very happy to provide a tip to that driver.

Most of these fellows are actually new Canadians. I find that driving around in cabs in Toronto is a great way to get an education, because they're people from all over the world. One of the things that really impresses me is how much they really appreciate democracy, freedom and their constitutional rights, because many of them come from countries where you don't have those kinds of things.

Getting paid fairly is a right. When somebody works, they have a right to expect to be paid in a fair manner. In the case of cab drivers, these fellows work hard. They work long hours for relatively minor wages, and they depend on us to be appropriately generous when it comes time to tip them for the service they provide.

I find it interesting that many of them have a university education, for instance, and they've come here and are driving a cab, or they're working on getting a university education. They come from some very interesting backgrounds, and what I always hear is how much they appreciate being in Canada, how much they appreciate the great government system we have here. Sometimes things happen in the House that I'm glad they're not aware of, because we drag out the time sometimes—I don't know who does that.

But it's always a pleasure to drive with these people, and it kind of reinforces in us why Canada is such a great place and what a wonderful opportunity and privilege it is to live here with our constitutional rights and our freedoms that this country provides for us. These things have been earned in wars and Parliaments over hundreds of years.

This is at a time when I would say we can go right back to—it's part of our Christian British cultural heritage. You can go right back to the Magna Carta of 1215, which was the basis of our democracy, where the common man decided that the king would not rule everything. The king could not come into our houses and could not tax us without the common man's approval. That was the foundation of democracy, and what we fight to retain here.

The Chair (Mr. Garfield Dunlop): Could you speak to the amendment, please?

Mr. Jack MacLaren: Was I digressing? I'm sorry, Mr. Chair.

The Chair (Mr. Garfield Dunlop): You did digress, yes.

Mr. Jack MacLaren: Oh. My apologies. It's just such a—I went from tips to new Canadians to democracy—

The Chair (Mr. Garfield Dunlop): Yes, I understand.

Mr. Jack MacLaren: —and naturally, Magna Carta falls into place.

The Chair (Mr. Garfield Dunlop): Right. Speak to the bill.

Interjection: Of 1215.

Mr. Jack MacLaren: Of 1215, yes.

All right. I had the good fortune of living on the Ottawa River, and, of course, we would occasionally go across the river to an establishment that served beverages, and we'd be tipping there. We were much younger when we did that, and sometimes we were kind of meagre on the tips, so we didn't treat people as well as they should have been. But they were certainly establishments where they would serve drinks and expect to have tips. We should have done better, and, certainly, now that I'm a little older and more appreciative of their right to receive a decent income—and decent tipping is part of that—I would say that I'm more conscientious of doing a good job of that.

Tips are such an essential part of it. I know that my wife had a job in the summer at a tourist resort, when she was young, where the owner of the tourist resort was the cause of what we're talking about here. He would take the tips left with the hotel bills at the end of the week, and the girls often saw little or none of that. That's the problem that we're trying to correct here, so this is a very good and worthy thing. We know that that has happened in the past, and I guess, unfortunately, it's still happening today, in the present time, so we do need to correct that.

I'm not sure if this is going to be bulletproof. It's hard even to craft perfect legislation. If you're dealing with people who are ill-minded, dishonest or not fair, we can never beat those kinds of situations. We can just do the best we can to come up with the most comprehensive piece of legislation we can; hopefully it will make things much better and eliminate as much of the abuse of the system as possible or discourage owners from keeping the money that is meant for servers, staff people and employees, and that it's properly shared.

We know that these kinds of things happen, we know that it's a problem and it's wonderful to see this legislation here today to address those things. I'm hoping, with all these amendments that we're going to be looking at, that we can sort through and try to cover as many of the little fine points that potentially could be cracks in the armour of what otherwise would be a good piece of legislation, and do it the best way we possibly can.

Ms. Cindy Forster: When are we actually going to get to it?

Mr. Jack MacLaren: I'm just about there. It's just that there aren't many other areas where tips are awarded to people as well, and it's hard to think of all those various occasions. You have hotels; you have golf courses where people do various works and are caddies. We're going to have to try to think of all of those things so that everybody is treated equally and fairly and the legislation is as complete as it can be.

I would say at this point that the legislation appears to be good. We look forward to further discussion of the amendments. Mr. Chair, I hope I'll have the opportunity to comment again as we go along with some of the amendments as they come about.

The Chair (Mr. Garfield Dunlop): You will. For each amendment, we can comment.

Mr. Jack MacLaren: All right. On that note, I'd like to thank you very much for giving me some time.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. MacLaren. Further comments or further debate on the amendment to the amendment?

Mr. Jack MacLaren: I'd like to call for a recess to deliberate with our caucus members on some of the questions that Mr. Barrett and I have.

The Chair (Mr. Garfield Dunlop): Before you can have the recess, is there any further debate? Right after the recess, we'll come in and we'll be voting on this, okay? How long would you like to recess?

Mr. Jack MacLaren: For 20 minutes, please.

The Chair (Mr. Garfield Dunlop): A 20-minute recess, everyone. We'll be back here at 1 o'clock.

The committee recessed from 1238 to 1258.

The Chair (Mr. Garfield Dunlop): Okay, folks, we'll bring the committee back to order. Our first item is voting on the amendment by Mr. Prue, 1.1, on the government motion. All those in favour of Mr. Prue's amendment? That's carried.

We now go to Mr. Balkissoon. It's 1.1.1. Mr. Balkissoon, you've got a motion?

Mr. Bas Balkissoon: I've got an amendment.

Mr. Toby Barrett: Actually, we just voted on this amendment to the original government motion. Do we not debate the original government motion?

The Chair (Mr. Garfield Dunlop): No. There are more motions to come.

Mr. Bas Balkissoon: I've got an amendment to the government motion.

The Chair (Mr. Garfield Dunlop): There are more amendments coming.

Mr. Bas Balkissoon: We do it at the end.

Mr. Toby Barrett: I beg your pardon? We debate them when, sorry?

Mr. Bas Balkissoon: I am moving an amendment to the government's motion, similar to what Mr. Prue did.

Mr. Toby Barrett: Okay.

The Chair (Mr. Garfield Dunlop): There are a number of them here.

Mr. Toby Barrett: Yes.

The Chair (Mr. Garfield Dunlop): Okay?

Mr. Toby Barrett: That's 1.1.1, is it?

The Chair (Mr. Garfield Dunlop): Yes, 1.1.1. Mr. Balkissoon?

Mr. Bas Balkissoon: Thank you, Mr. Chair. I move that section 14.1 of the act, as set out in government motion 1, be amended by adding the following subsection—and I know you have a copy of it, and I have one small change; I'm going to read it with the change, and I would ask you to just change your own copy:

"Same—exception

"(6.1) An employer"—instead of the word "may," I'm changing it to "shall," to make it stronger—"shall not redistribute tips or other gratuities under subsection (6) to such employees as may be prescribed."

If I could just explain that and make a comment so that everybody understands what I'm doing: If you look at section 6, it outlines the gratuities among some or all of the employer's employees, and it's not definitive.

If some of you may remember, we had two groups from banquet halls and hotel facilities that basically complained about employees who were not part of an event who received a gratuity or participated in a gratuity. I want to make sure that just those employees who were part of the service that was relevant to the gratuity get the gratuity. I would leave it to prescribe those employees such as a booking agent, as an example, cannot participate, or a manager of the facility but not part of the event participating.

I'm moving this motion and I hope that everybody will support it.

The Chair (Mr. Garfield Dunlop): Okay, any further debate on this motion by Mr. Balkissoon? Mr. Barrett?

Mr. Toby Barrett: When you were explaining this government—I guess it's a government motion or a government amendment, actually.

The Chair (Mr. Garfield Dunlop): It's an amendment to the amendment.

Mr. Toby Barrett: It's 1.1.1.

In your explanation—and you did talk about the facility gratuities, but I don't see the words "facility gratuity" in here. Now, you say "other gratuities." Again, I know we're at the beginning of the legislation and I know this is an amendment to the government motion, which did talk about definitions. But what we're lacking, in my view, is a definition of this facility gratuity, these automatic gratuity charges that seem very common now; they're added to wedding parties or groups that book a large hall or have a convention. The assumption is they cover a lot more than just tips or gratuities; they cover other expenses of running the hall and I would think we agree that has to be more transparent.

Again, it goes back to a one-sentence bill where we're discussing terms like a gratuity or a tip and it may be unclear just what we mean by those terms. I think of even private members' bills; at the beginning there just seems to be a list of definitions of exactly what we're talking about.

I know in this legislation, for that matter, even in this 1.1.1 motion, you talk about employer and employee. We

don't have a definition of employer in front of us or a definition of employee, and there's been some confusion there, especially when we do talk about the accusations of an employer dipping into a tip jar or a concern that we heard in the deputations before this committee. I know there was talk of tip-outs.

I know the legislation defines what a tip is, but it doesn't say what a tip-out is, and I know there was some debate here. Someone kind of explained it to me; I didn't understand the difference between tip-outs and tip pooling. I'm still unclear on that. I know they had a submission, I think, that gave us those definitions.

I assumed a tip-out was the same as pooling. I mean, tip-outs are pooled and they're redistributed among various support positions. I think when this process first started, it was not only, say, for the server, but it may be a busboy or some other front-line person. Then more recently—and this is a good thing—tip-outs also were administered to the back office or the back kitchen: the cooks, the dishwashers, other people. It's done as a percentage of sales, as it was explained to us.

I know the legislation does not give us—the government motion gives us the definition of a tip, but not this tip-out business and the fact that it's meant to be split up among other staff.

We've got this whole new system of redistributing income that comes, say, in this case to a restaurant, a redistribution of tip revenue. This legislation, I think we all agree, is designed to provide a bit more control over that process. I mean, it is a law, but it also sends a message. It would perhaps help to have organizations, whether it's groups of employees or management, to have a better system.

It offers some direction on how to make things a little more fair, but we hear other expressions. I don't know whether these definitions have to be in the legislation, that talk about the "house share"—that sounds like a casino to me—or talk about "dine and dash." I've got an assumption of exactly what that means in my mind, but whether that justifies an employee representative deciding whether a manager should get a share of the tip, or the employer—this is going back to Mr. Prue's amendment. If there's been a dine-and-dash situation that hurts the bottom line of the employer, maybe that's taken out of a manager's pay, or maybe that's taken out of the front-line staff's pay.

To recoup the cost of breakage—I know we even had indication from at least one delegation that we've got to have this kind of system to compensate for the hit they take on credit card purchases. Now, that seems unfair to me, if establishments that are partly based on tipping would ask for legislation to cover off on another problem, which is losing money on credit cards, when there are so many other businesses that receive their payment for services through credit cards but don't have a system of tipping.

Whether it's tipping out or tip-sharing—I don't know whether that's the same definition or not—it's developed over the years in many ways to, in my view, compensate

for inadequate compensation. We have talked about the minimum wage, and then this other special minimum wage for people in the service industry, which seems to be a backwards way of trying to make things more equitable. Obviously the way it is now is inadequate, hence the customer is asked to be part of this whole process of tipping, tipping out, tip sharing and what have you.

I'm just concerned that, if we don't define these things a little more clearly right at the beginning, we may be creating legislation on something that is perhaps unclear to the general public. Do you have any comments on that?

Mr. Jack MacLaren: I have a question. I'm not sure if I'm reading this right or not, but it says that an employer "shall not" redistribute tips to employees, yet in section 6 it says an employer "may" withhold tips to return and give them to other employees. Is that not contradictory, or am I reading that wrong?

Mr. Bas Balkissoon: Mr. Chair, if I could respond to both comments. I would ask my colleague Mr. Barrett if he would just pay attention to the exception in section 8. I think it clarifies a little bit who will participate in tips. If tip-outs confuse him, I think that this whole piece of legislation that is in front of us is because Mr. Prue proposed in his bill that tip-outs not be allowed. This whole piece of legislation is written in that manner. Those who are not entitled to tips should not be collecting them, and I think it's pretty clear.

If I could answer Mr. MacLaren: All I'm doing in section 6 is providing an extension to clarify, by prescribing who is not entitled to tips, if that opportunity is necessary.

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I would give you an example. There was one deputant that was here from a banquet hall. She said the manager who books the hall used to come for about half an hour at the end of a wedding and he was part of the tips, so he'd be there just for half an hour and he was getting an equal share like the others who worked the entire event. She thought that was unfair, and I have to agree with her. So in that case, we can prescribe that such a person, who should really be part of the establishment because they're full-time employees, should be well paid by that establishment and not be entitled to tips. The part-time employees, like the cooks and the waiters and the waitresses and the busboys, would be part of the tips.

So we can prescribe in those situations that they cannot get it. I think that's the whole idea.

I'm just providing an opportunity to clarify those things, whereas if you leave it the way 6 is written, in my mind it would still leave it up to the employees and the establishment to negotiate with the owners of the establishment that this booking agent is not entitled to it. So I'd rather prescribe it.

Mr. Jack MacLaren: I understand what you mean. I'm just asking, if you add that sentence to 6, will it achieve what you want to achieve?

Mr. Bas Balkissoon: The best legal minds have told me it will.

Mr. Jack MacLaren: I'm not a best legal mind. It just seems contradictory to me; 6 is saying an employer may withhold tips and redistribute them to employees, and then your sentence says no.

Mr. Bas Balkissoon: I'm saying no as to who is not entitled.

Mr. Jack MacLaren: That's what you mean by "may be prescribed"?

Mr. Bas Balkissoon: "May be prescribed." That's right.

Mr. Jack MacLaren: That sounds like a lawyer wrote it.

Mr. Toby Barrett: My concern when I read something like that—and I know we hear from people who are trying to run some of the smaller businesses like these businesses, and we do hear this. I certainly hear it from farmers, for example. I think during testimony at the witness table here there was the indication that this industry is already heavily regulated; that's what they were telling us. I'm just concerned that this is yet one more piece of bureaucratic red tape, one more addition to the regulatory burden.

If the government gets involved in the allocation of this kind of income, is this going to mean more forms, more paperwork, more things to fill out? Or is it still under the administration of an employee representative, as the NDP have indicated, where somebody basically just kind of counts the money and they agree on a share and they do this every night, for example, and they know what to do?

I'm just concerned that so much of the industry, we were told in this committee, operate on very low margins. Obviously, the ones that start up are small business. A lot of small business—there are lots of start-ups, which is good. Unfortunately, we never really hear that much about the ones that fail or the ones that close up, that, especially in the tourism industry, run for the summer, and maybe they make it till Christmas. January and February, they are closed; there's an empty building. And then a new person comes in in the springtime.

I'm also concerned that this kind of an amendment, where it says the employer may not redistribute tips—does this give the impression that the employer is mistreating service staff? That was a concern they had; in fact, I see this in the summary of recommendations that was put forward by legislative research, I guess it would be. I really appreciate getting these kinds of things.

Both CFIB and CFRA felt that this bill gives an unfair impression that all employers in the service industry are mistreating their service staff, and I would hope that this amendment 1.1.1 wouldn't contribute to that kind of perception. Very clearly, we have a law where the government says that you may not redistribute to such employees as may be prescribed—that takes away a function of management. At many of the larger restaurants—we heard about the chains—they have managers who are responsible to make sure that the bartending and the dishwashing occur. This takes away part of their management function.

My question is: To what extent does this also take away a portion of income that would go to the managers where they are doing work that may justify them sharing in the tip revenue? Those are some concerns that I have on that.

The Chair (Mr. Garfield Dunlop): Mr. Prue is next.

Mr. Michael Prue: Chair, if I could: Sections 8 and 9 spell out exactly what the managers can and cannot get. They are entitled, in certain circumstances, to take their portion. This is a bit of a red herring. All this amendment does is allow the government to prescribe a class or persons who would not be eligible.

Mr. Balkissoon has talked about the booking agent for a banquet hall. We want to make sure that, when the government says that the booking agent for a banquet hall is not entitled to any portion of the tips, even though they may have booked the room—that's what all this prescription is. The right of owner-managers who actually get their hands dirty and work alongside the staff is protected in sections 8 and 9.

I don't know what this debate is, other than—I'm sorry to say this to my Conservative colleagues, because I love them both, but this seems very dilatory, what's going on here today. We need to be speaking to what is actually in front of us.

This section here talks about someone who is prescribed against getting the money, and this is a broad general prescription that the minister, in his or her wisdom at some future time, can say that the booking agent cannot share. That's all. This is a little tiny section. I agree with it, but it's of no huge consequence.

The Chair (Mr. Garfield Dunlop): Further debate on the amendment, then? Mr. MacLaren?

Mr. Jack MacLaren: Mr. Prue, I ask you: Are you feeling that this motion by the government, as an amendment, is not necessary? Is that what you're—

Mr. Michael Prue: It is a tiny, tiny possibility that some people may try to get around the regulations. There are always people in this country and in this province who try to get around regulations. I am not naive, after 25 years of sitting in municipal and provincial governments.

What this does is, it allows the minister, at some future date, whoever he or she may be, if they see an abuse, to say, "We are prescribing against that abuse or this class of persons obtaining the money," without having to do additional legislation. Is it necessary today? I don't think so. Is it necessary in the future? Maybe, and that's why I'm going to support it.

Mr. Jack MacLaren: If I can make a suggestion, I heard words said here—I think Mr. Barrett was saying that there were comments from one of the people who presented saying that this bill throws a negative light on employers—I forget the exact language. So, if you stroked out the word "not," would it not mean exactly the same thing?

Interjection.

Mr. Jack MacLaren: No?

Ms. Cindy Forster: This is the opposite.

Mr. Jack MacLaren: What?

The Chair (Mr. Garfield Dunlop): Ms. Forster, do you want—

Ms. Cindy Forster: Section 6 talks about who an employer can redistribute tips to, and 6.1 is there to allow the government to exclude somebody in the future who's abusing the system.

Mr. Jack MacLaren: It wouldn't be an exclusion. It would just define who you can give money to. It's more positive. That's all I'm saying. It's cosmetics.

The Chair (Mr. Garfield Dunlop): Further debate? I'll call the question.

Mr. Jack MacLaren: I submit that we make that change, make an amendment—

The Chair (Mr. Garfield Dunlop): Well, then you've got to make an amendment.

Mr. Jack MacLaren: Okay. I make an amendment that we stroke out the word "not."

The Clerk of the Committee (Mr. Trevor Day): We've got an amendment on the floor, and an amendment to the amendment. You can't make two. You've got to vote on one, and then you can pose another.

Mr. Jack MacLaren: Oh. So we vote on this one first?

The Clerk of the Committee (Mr. Trevor Day): You can have an amendment, and an amendment to an amendment, but you can't go further down the ladder. This one has to come off the floor before there's room for another one.

Mr. Jack MacLaren: So we can't make any more amendments?

The Clerk of the Committee (Mr. Trevor Day): Not at this time.

Mr. Jack MacLaren: Okay. Well, Mr. Chair, I'd like to call for a recess for 20 minutes.

The Chair (Mr. Garfield Dunlop): Okay. Recessed.

The committee recessed from 1320 to 1340.

The Chair (Mr. Garfield Dunlop): We'll reconvene. We now have to do the vote on the amendment to the government bill by Mr. Balkissoon; that's 1.1.1.

All those in favour of that? Opposed? That's carried.

We'll now move to NDP motion 1.2. Mr. Prue.

Mr. Michael Prue: I wonder if I might be able to shorten the process, if you would bear with me. If I can just ask a question—I can do it either way. I can read it.

Interjection.

Mr. Michael Prue: I'll ask the question. If I can ask a question of the government, and perhaps of legislative counsel, on the meaning of part (b) in both sections 8 and 9. The reason I had put in the next two motions is that I took it to mean one thing, and it may in fact mean something else. If you can clarify what is meant by 8(b) and 9(b)?

Mr. Bas Balkissoon: Mr. Chair, I'd be happy to, if I could just use an example that may help with his concern. Take, for example, a restaurant where the owner or his partner in the business is actually performing duties that are normally performed in a restaurant. Let's say he's the bartender. He would normally share in the tip pool, so that line allows him to do it; whereas if it wasn't there, he

would not be able to do it, based on the rest of the amendment. It's to allow those who actually perform duties similar to another establishment in a similar industry and are partaking in a pool of tips—it allows that to happen.

Mr. Michael Prue: Would legislative counsel agree that that's what part (b) in both of these sections is intended to do?

Ms. Julia Hood: Yes; for a situation where, using the bartender example, there is only one bartender—so no other person at that particular establishment is doing that work—but industry-wide, there are lots of bartenders who do get tips. I think that's what it's meant to cover.

Mr. Michael Prue: So, for clarity: If the owner is the bartender, he may not be entitled to the tip, but industry-wide, a bartender who was not the owner would get a portion of the tip; therefore, this allows the owner-bartender to share in the tip pool. Is that what this is intended to do?

Mr. Bas Balkissoon: Yes.

Mr. Michael Prue: Okay. That's clearly on the record, and I'm glad that it's on the record. That being the explanation, I would like to withdraw this motion and the following one.

The Chair (Mr. Garfield Dunlop): So you're saying that 1.2 and 1.3 are withdrawn?

Mr. Michael Prue: I'm not moving them. They're withdrawn.

The Chair (Mr. Garfield Dunlop): You're just withdrawing them?

Mr. Michael Prue: I am withdrawing them. Yes.

The Chair (Mr. Garfield Dunlop): Okay. Thank you. That takes us to 1.4, which is again an NDP motion.

Mr. Michael Prue: I'm not withdrawing this one. Okay. If I can read it into the record: I move that subsection 14.1(10) of the act as set out in government motion number 1 be struck out and the following substituted:

“Transition

“(10) If a collective agreement that is in effect on the day section 1 of the Protecting Employees' Tips Act, 2013, comes into force contains a provision that addresses the treatment of employee tips or other gratuities and there is a conflict between the provision of the collective agreement and this section, the provision that provides the greater benefit to the employee prevails.”

If I could explain—

The Chair (Mr. Garfield Dunlop): If you could explain, and then we'll go right to the—

Mr. Michael Prue: —and then we'll go into some debate.

The reason for this explanation is that this is very common practice within most government bills. I'm thinking, first of all, about the Employment Standards Act, which mandates that where changes in the act supersede or are greater than benefits contained in the collective agreement, the Employment Standards Act prevails.

I also remember some time ago, when the government raised minimum wage across the province, the minimum wage act superseded some employee agreements where the minimum wage was suddenly higher than what was contained within the collective agreements in question. Therefore, the employees received the benefit of a new, higher wage, higher than they would have got under their collective agreement.

What I'm saying is, this is the industry standard, and it is a common standard in law. Where laws are changed, the person affected by the law has the benefit of whichever standard is better to them. I'm simply asking that something that has been done for centuries in this country and is a precept of law and something that has been done by this government in other labour relations cases be transferred here, because it would be unfair, I would suggest, to people in unionized places who have contracts that may extend for some period of time to have benefits and privileges which they negotiated in good faith which are actually worse than in places that do not have the benefit of a union.

The Chair (Mr. Garfield Dunlop): Mr. Balkissoon.

Mr. Bas Balkissoon: Mr. Chair, the government will not be supporting this motion, and I'll tell you why. I hear Mr. Prue's argument, but in this particular case, it would have been okay if that collective agreement was singularly set for tips. But I think the agreements that exist today are part of a larger collective agreement for all working conditions in an establishment, and the employer in this particular case may have traded other things to settle the issue with tips, where tips were not governed before.

I think the government's intent in not supporting this is to allow those agreements to expire and let the employer and the employees negotiate the best deal in the next agreement. It may well mean that they do something on behalf of the employer or they do something on behalf of the employees, but it's negotiated and it's not mandated by government. So we're not going to be supporting this.

The Chair (Mr. Garfield Dunlop): Mr. Barrett?

Mr. Toby Barrett: Yes, just further to that—and I appreciate the comments and I appreciate the comment from the government side. We have collective negotiation for a reason; we have collective agreements. By and large, government and government legislation reflect that. I'm surprised to hear that other legislation overrides collective agreements.

I'm not—our labour critic isn't here; this is a labour bill, of course; we realize that. But I guess I agree with Mr. Balkissoon in the sense that collective agreements aren't just about tips; they're not just about wages or salaries. They include so many other—hours of labour; so many other issues—perks, if you will: retirement, early retirement, compensation, really, and—not that I'm asking for a definition of compensation in this motion or in this amendment or in the legislation itself, but collective agreements cover so much. It just seems a little odd. I know that our focus is on tips, but the collective

bargaining process covers safety, the quality of work, management rights and labour rights and so many other things. It just seems like a rifle approach. I know we're looking at things through the lens of tips, but I'm leery to see legislation override the collective bargaining process in the province of Ontario.

The Chair (Mr. Garfield Dunlop): Ms. Forster?

Ms. Cindy Forster: I want to get on the record on this one as well, because I think the government's position on this is totally setting up now two classes of employees who probably earn the least of any employee group in this province. So now we're saying that they may have to wait three years; they may have to wait the rest of their lives if they stay at that particular restaurant and they don't have an employer that will agree to include in their collective agreement a better provision that exists in the Employment Standards Act.

To say, "Tips—this is a new provision": The government introduces all kinds of new legislation every week, every year, in this province, and these servers and busboys and dishwashers should not be precluded from having a superior provision. The ESA deals with issues of holiday pay, vacation pay, overtime, all those kinds of issues. So if the government was to introduce an overtime provision that was better than what's existing in the ESA, are you saying that people who are in collective agreements in this province wouldn't be entitled to that superior condition or to that additional statutory holiday, perhaps?

I think that where you're going with this is wrong. There's no guarantee that in this sector—that is, a right-to-strike sector. These people could end up on the street in a strike to try to gain something that will be included in the Employment Standards Act. I'd like to actually ask legislative counsel if there are any other legislative acts in this province where the legislation does not prevail over collective agreements.

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Ms. Julia Hood: I'm not in a position to answer that question. Does someone from the ministry maybe want to speak to that?

The Chair (Mr. Garfield Dunlop): Just please mention your name, sir.

Mr. John Hill: My name is John Hill. I'm general counsel with the Ministry of Labour's legal services branch. I certainly can't answer the question about whether there's any statute. I can recall a statute where it overrode collective agreements: the Social Contract Act, 1993, is one, so it's not unprecedented.

I don't think, though, that the government motion is overriding collective agreements. It's preserving collective agreements until the next round of bargaining.

Mr. Michael Prue: But if I can just ask: There are hardly any unionized places with servers to begin with, except sometimes in hotels and in the banquet industry, and they're usually—but many of them have two- or three-year agreements. So these people would be expected, then, to wait two or three years for the benefit of the law that comes to everybody right away.

Mr. John Hill: I think that what's in the government bill and what's in your motion are premised on two different situations. I think that what's in the government bill is basically preserving, till the next round of bargaining, certain collective agreements that allow the employer to take a share of tips. The legislation provides that that can continue to prevail—even if it doesn't conform to what would be section 14.1 if this legislation is passed—until the next round of bargaining.

Your motion, if I understand it correctly, is premised on something different, i.e., that the collective agreement is doing something more favourable to employees than would section 14.1 if it is passed. I do understand that. I think that that situation is probably fairly rare—although that's neither here nor there, I suppose—but it might be a situation where, for example, the collective agreement says, "All tips have to go to employees. There can't be any sharing with owners, even working owners." Of course, 14.1—

Mr. Michael Prue: I think you have it backwards. Most of the large places, the big hotels and the banquet centres, take the 15%—which they call a "gratuity" now—and they divvy it up. They give about 10% to the employees, and about 5% goes to management.

What my bill originally, and now the government motion, would do is say that that practice can continue. Although it is outlawed in law, the fact that they have negotiated for something which tomorrow, if this were to become law, would be less—then they are stuck with that, because they signed it.

Mr. John Hill: Yes, I understand that, and the bill does provide that that only goes until they make their next collective agreement. Once they're into the next round of bargaining and they make another collective agreement, at that point, this provision will no longer apply, because it only applies until they make their next collective agreement. But at that point, subsection 5(2) of the Employment Standards Act would apply. It says that if a contract of employment—and that includes a collective agreement—provides a greater right than what an employment standard provides, then the contract of employment prevails.

If you do have a collective agreement that actually gave employees a better deal than what's in 14.1—say, it provided that there's no sharing of tips, even with working owners—then that will prevail.

Ms. Cindy Forster: But what happens if they aren't able to negotiate a better provision in the collective agreement and they still are sharing that 15%, with 5% going to the manager?

Mr. John Hill: It wouldn't matter, because after they make their next collective agreement the exception is no longer available. At that point, subsection 5(2) of the Employment Standards Act would say, "Okay, you've got a contract of employment that gives you less protection than 14.1; therefore, 14.1 prevails over your collective agreement to that extent."

Ms. Cindy Forster: So it will apply after the next collective agreement is in effect?

Mr. John Hill: That's right.

Ms. Cindy Forster: Okay.

The Chair (Mr. Garfield Dunlop): Further debate? Mr. Barrett?

Mr. Toby Barrett: Yes. Thank you, Chair. Just on this advice with respect to overriding collective agreements: In my limited knowledge, that's something that you would only resort to in an emergency or a fiscal crisis. You made mention of the social contract, and that was done maybe 20 or 22 years ago.

Well, recently, we had Bill 115, which essentially overrode a collective agreement. That was what, two summers ago? The concern at that time was a fiscal government-spending concern. Under law, it is justified, but we accept that only in a crisis; it may be an economic crisis, or it may be a fiscal crisis with respect to government spending. But I'd just hate to have this in here and to have the right to use a hammer on something that I see would be more in the category of a tack. I think it's too much to do with this tip issue.

Now, you made mention of unfairness—two tiers or what have you. Of course, we are aware of a unionized cook. By and large—I think the Canadian Labour Congress would attest to this—a unionized cook does make more money than a non-unionized cook, on average. In individual cases, there are variations, but on average, there is a two-tiered system. If you're a cook and you're unionized, my assumption is that you're making more money than a cook who's non-unionized.

If you're a cook working in, say, a small mom-and-pop restaurant, it seems unfair. You are making considerably less money than if you were a cook working in a kitchen in a correctional centre, if you were a member of a government workplace. A cook working for the government makes considerably more money—and not just in wages. If you look at total compensation, there are other factors. It is unfair.

We can talk about pay equity, but there's no pay equity as far as the differences between a cook working in a small restaurant versus a cook working for a government agency or a correctional centre, for example, as far as job security, perks, perhaps pension and things like that. There is a two-tiered system, both public sector/private sector and union/non-union—very clearly, a two-tiered system. I don't think it's fair. There is a two-tiered—

The Chair (Mr. Garfield Dunlop): Is that a question?

Mr. Toby Barrett: It's not a question, no.

The Chair (Mr. Garfield Dunlop): It's just a statement?

Mr. Toby Barrett: Just two issues that were raised that I think are important.

The Chair (Mr. Garfield Dunlop): Okay, fine. Further debate? Okay. I'm going to call the question on this motion. All those in favour?

Mr. Michael Prue: I'd like to ask for a recorded vote on this.

Ayes

Forster, Prue.

Nays

Balkissoon, Barrett, Crack, Dhillon, MacLaren, Mangat.

The Chair (Mr. Garfield Dunlop): Okay. I'm sorry; that doesn't carry.

So we've gone through a number of amendments to the government motion. We'll now ask, will government motion 14.1 pass, as amended? Is there any further debate on that?

Mr. Toby Barrett: Did you say 14.1? The first one?

The Chair (Mr. Garfield Dunlop): The very first government motion.

Mr. Toby Barrett: It's on page 1?

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Toby Barrett: Okay. Here we are.

The Clerk of the Committee (Mr. Trevor Day): As amended by the various amendments. Now we're on that.

The Chair (Mr. Garfield Dunlop): Any further debate? Those in favour? That's carried.

We'll now go to PC motion 1.5. Mr. MacLaren, are you reading it?

Mr. Jack MacLaren: I don't have any comments.

The Chair (Mr. Garfield Dunlop): No; you have to read it.

Mr. Toby Barrett: You can read it in, if you want.

Mr. Jack MacLaren: Oh, you want me to read it? Okay, sure.

The Chair (Mr. Garfield Dunlop): And I think it's two—it's one page, sorry.

Mr. Jack MacLaren: Okay.

Mr. Toby Barrett: Yes. We're getting a two-for-one here.

The Chair (Mr. Garfield Dunlop): Wait a sec. There are two motions?

Mr. Jack MacLaren: No.

Mr. Toby Barrett: One motion.

The Chair (Mr. Garfield Dunlop): One motion. Okay.

Mr. Jack MacLaren: I move that section 14.1 of the act as set out in section 1 of the bill be struck out and the following substituted:

"Tips and other gratuities

"14.1(1) Subject to subsections (2) and (3), no employer shall take any portion of an employee's tips or other gratuities.

1400

"Pooled tips and other gratuities

"(2) An employer may take a portion of an employee's tips or other gratuities if,

"(a) the employer regularly performs work for which tips or other gratuities are given; and

"(b) there is an arrangement between the employer and his or her employees to pool tips and other gratuities.

“Facility charges

“(3) An employer at a banquet hall or hotel may take a portion of an employee’s tips or other gratuities for the purpose of redistributing the tip or gratuity if,

“(a) the tip or other gratuity is a facility charge that is automatically included by the employer on a customer’s bill and identified as a facility charge on the bill; and

“(b) there is an arrangement between the employer and his or her employees to redistribute facility charges.”

The Chair (Mr. Garfield Dunlop): Okay. Any questions, or would you like to make a statement on it?

Mr. Jack MacLaren: I have nothing to say.

Mr. Toby Barrett: By way of explanation, we put this forward in the assumption—the reality is there really is no one-size-fits-all. I think of the small restaurants in my area with a kitchen counter with those stools that go around in circles; the cook, everybody is right in front of you, about two feet in front of you—to the large chains, and we’ve heard testimony from people who have worked with a lot of the large chain restaurants. This was put forward in the context or the assumption that these decisions are really best left up to the individual establishment. Decisions should be made by the staff or representatives of the staff—all staff, ideally—and of course, by the owners of the businesses and the managers themselves.

We’ve put this forward, really, in the interest of trying to come up with something that is fair. I kind of indicated that it was, in a sense, two motions for the price of one. There are two issues here: the one part on pooled tips and other gratuities. For “pooled tips” I guess we can say “shared tips”; some people would argue that those are two different things, and I’m still not clear on that. But essentially, managers and owners would have the option—would be allowed—to share in the tip pool if they are a regular participant in the job function, participating in the quality of service that would earn tips.

We heard in testimony, and some written submissions came forward, that they often do the work themselves, and I’m thinking more of the small business owner. The door should be open for them, within reason, to collect tips, to share in tip pooling or to participate in tip sharing, depending on how you define these various words, where it’s appropriate.

I think of Fred’s restaurant. Fred is there. He actually owns it. He works as the host, he cleans up the tables, he sweeps the floor at night, and oftentimes he’s the cook. If he’s got a lunch counter, he cooks it. He makes that milkshake for you, and then he swings around and gives you the milkshake. He owns the place.

I think of a restaurant, I don’t want to name names, but it’s a great dairy restaurant down my way. Joe should be allowed to share in the tips for the work and the quality of service that he provides to Joe’s or Fred’s loyal customers. By the same token, if his wife is serving on tables and pouring the coffee, again, she should receive the tip. Now, I know the one-sentence bill more or less says that. We just want to clarify it in this motion.

Then the second one, the facility charges, these automatic gratuity charges—again, there are different names for this arrangement in the banquet halls, the convention halls. Different people are using different names. It concerns me that if this legislation doesn’t come up with a definition for some of these terms, we might be talking about different things.

But again, these kinds of automatic gratuity charges: They’re put on the bill that a wedding party receives when they’ve had a wedding in a banquet hall or in a hotel and then it can be distributed and/or shared with the house. We don’t really define the house in our amendment, as I recall. But it has to be transparent; it has to be called a facility charge and it’s got to be itemized and clearly identified on the invoice for the people that have rented the place.

These kinds of gratuities are commonly added for these large group halls, but they cover a lot more than a tip; they do cover a lot more than a gratuity. A portion of this, as we know it, goes to the house. I guess we could call it a service charge. But this legislation, Bill 49, very clearly does not address this at all, and we would like to—we feel it would be important to have that included.

The Chair (Mr. Garfield Dunlop): Further debate? Mr. Prue?

Mr. Michael Prue: It’s actually questions more than debate. On the first one, pooled tips and other gratuities: Has this not already been dealt with by the committee to your satisfaction in the provisions that the government has put forward? I don’t see anything different that you’re asking here that has not already been passed. If you can tell me how it is in any way different, I would entertain that, but I don’t see it. That’s my first question.

Mr. Toby Barrett: So this would duplicate another amendment, a government amendment?

Mr. Michael Prue: Yes, I think it—

Mr. Bas Balkissoon: It would undo it and weaken it.

Mr. Michael Prue: What has been passed allows already for, in certain circumstances, the tips to be pooled and also to be shared, and those cases where owners or directors can participate. That has already been passed, so I don’t see what yours is doing in any way different.

Mr. Toby Barrett: So legal counsel could confirm that.

Ms. Julia Hood: They’re different. There’s less detail in terms of the rules that are included—

Mr. Toby Barrett: Which one has less detail, sorry?

Ms. Julia Hood: This motion has less detail—

Mr. Toby Barrett: Less detail, yeah.

Ms. Julia Hood: It’s just not as detailed. So it’s not a duplication. I think they’re similar, but they don’t do the same thing.

Mr. Toby Barrett: And then the second part, facility charges: I’m not—

Mr. Michael Prue: Again, if I could ask the question about—it was not included in my original bill or in the government’s amendment. We steered clear of it because it was a contractual agreement signed by—not by the unions or the people who work there, but it’s a contractual agreement between the owner and the customer.

I think the reason I brought it up in many of the debates was to show people that when they thought they were giving money for a tip, it wasn't going for a tip at all; it was going straight into the pocket of the owner to pad the profit. I think the industry has agreed that that's true, because they were here and they said that they wanted to change the name because really what it was was a remedy of pretending to be a tip which people wanted to give to the servers but in fact it wasn't at all; it was a facility charge.

I'm just having a little bit of difficulty saying that they can continue to do a facility charge and take the money from the employees. If they're going to take the money, then they should just take the money; they shouldn't pretend it's a tip. That's what I think, but anyway, if you can convince me otherwise, I'll gladly be persuaded.

The Chair (Mr. Garfield Dunlop): Further debate? Mr. Dhillon.

Mr. Vic Dhillon: Just briefly, I want to state our position on this: that we will be voting against this because it weakens what we've already done so far. It undoes a lot of the headway that we've made so far, as I stated in the previous motion, so we'll be voting against this.

The Chair (Mr. Garfield Dunlop): Further debate?

Mr. Toby Barrett: Going back to the question, legal counsel indicated that there was a duplication. Can a very simple amendment be made by deleting 2(a) and (b) and leaving in "facility charges," to delete the duplication?

Ms. Julia Hood: That would get rid of all of the rest of the rules that we've gone through today. All that you'd be left with would be your facility charge rule.

Mr. Toby Barrett: So 3(a) and 3(b).

Ms. Julia Hood: Yes.

Mr. Toby Barrett: Is that appropriate, to verbally just delete 2(a) and 2(b)? Or I can write on this, and then we'd vote on it.

The Clerk of the Committee (Mr. Trevor Day): That would be an amendment to the existing amendments on the floor, striking out—

Ms. Julia Hood: Subsection 2.

The Clerk of the Committee (Mr. Trevor Day): — subsection 2 completely.

Mr. Toby Barrett: Yes. The reason I say that is that I just got the government motions when I came in. I haven't read your motion.

Ms. Julia Hood: Technically, you'd also want to amend subsection 1 because it refers to two subsections and now you're going to be getting rid of one. Do you want to take a short break and just write it up properly?

Mr. Toby Barrett: Yes, with your advice. I think I could do that quickly.

The Chair (Mr. Garfield Dunlop): Can we have a five-minute recess, everyone?

The committee recessed from 1411 to 1416.

The Chair (Mr. Garfield Dunlop): The recess is over. We'll call the meeting back to order. We had an amendment.

Mr. Toby Barrett: Yes.

The Chair (Mr. Garfield Dunlop): Go ahead.

Mr. Toby Barrett: Thank you, Chair; I appreciate the five-minute recess. I did have an opportunity to talk to legal counsel, again referring back to PC motion 1.5 for Bill 49. As we realized in discussion, the first section, titled "Pooled tips and other gratuities," is a duplication. It's not as detailed as the government amendment, but it is a duplication.

Secondly, I did chat with legal counsel about the second part, titled "Facility charges." This is 3(a) and (b). It doesn't duplicate the government amendment, but as I've come to realize, it is in the same spirit of a section of the first government motion—and if I can find the first motion. The government motion on page 1: I'll just check with legal counsel under 14.1(c), is it section (c)?

Ms. Julia Hood: Yes, in the definition of "tip or other gratuity"; we're looking at clause (c). This is towards the bottom of the first page of the motions package.

Mr. Toby Barrett: Could you just explain your interpretation of what the government has written under 14.1(c) and what the opposition is putting forward? I would accept that what the government is putting forward in 14.1(c) is basically what we are trying to have implemented to improve this. Could you explain whether that's accurate or not?

Ms. Julia Hood: Sure; yes, I'd be happy to. Motion 1.5 from the PCs in its subsection (3) deals with facility charges and sets out a rule regarding facility charges. There isn't a parallel provision in the government motion that carried, but I wanted to point out that in the definition of "tip or other gratuity" that's in that motion, clause (c) covers off payments of service charges or similar charges that are imposed by an employer on a customer. That is a sort of similar type of charge where you're looking at an automatic gratuity that's put on a bill. It's not a voluntary payment that's left by a customer, but rather one that's being imposed by the employer on their customer. I think it fairly parallels, at least in spirit, the facility charge that the opposition motion contemplates.

Mr. Toby Barrett: If that's the committee's understanding, if that makes sense, if that covers it off, I would be willing to withdraw the PC motion.

The Chair (Mr. Garfield Dunlop): Motion 1.5?

Mr. Toby Barrett: Yes, 1.5.

The Clerk of the Committee (Mr. Trevor Day): We have a bit of a strange situation here. The mover of the motion, Mr. MacLaren, is no longer a member as of 2 o'clock. In this case, I believe we would require unanimous consent to take this motion off the floor.

Mr. Michael Prue: And I would move unanimous consent.

Interjections: Agreed.

Mr. Michael Prue: Agreed.

The Chair (Mr. Garfield Dunlop): Withdrawn. Thank you very much, Mr. Barrett.

With that, shall section 1—

Interjections:

The Chair (Mr. Garfield Dunlop): Okay, folks.

Mr. Bas Balkissoon: Toby, that's the best thing you did all day.

The Chair (Mr. Garfield Dunlop): I'm finally going to get a vote on a section here.

Interjections.

The Chair (Mr. Garfield Dunlop): Shall section 1, as amended, carry? Carried.

Section 2: We have a government motion. It's number 2. Mr. Dhillon.

Mr. Vic Dhillon: I move that section 2 of the bill be struck out and the following substituted:

"Commencement

"2. This act comes into force on the day that is six months after the day it receives royal assent."

We believe that's an appropriate amount of time to give business to administer, implement, this law.

The Chair (Mr. Garfield Dunlop): Mr. Balkissoon?

Mr. Bas Balkissoon: Chair, I would add that there are so many associations representing the various industries, like banquet halls, restaurants etc., that six months is adequate to allow them to be aware of this change in legislation and notify their members and let their members become familiar with what we did here and what we'll do in the Legislature later on, and give them enough time to work with their employees to adjust it.

The Chair (Mr. Garfield Dunlop): Further debate? Mr. Prue.

Mr. Michael Prue: Thank you very much. As the members of the committee will note, we have a motion that limits that to three months—actually, 90 days, if this one does not pass.

The reason we chose 90 days is that there are literally tens of thousands, if not hundreds of thousands, of people out there who are not getting the tips that are due to them, and they have waited a long time. This is three years that I've been fighting for this bill. I'm hoping it becomes law soon, but they've been waiting for three long years for this to be remedied. In the meantime, since this all started, New Brunswick, Prince Edward Island, Quebec and several jurisdictions in the United States—and Newfoundland—have all passed laws and had it come into effect, and we seem to be lagging behind.

This will not be a surprise to the restaurant industry. They have been informed about this throughout. They've had meetings with me—a little testy at first, mind you, but we've come to some understanding in the latter stages. I know they've had meetings with the government. We would be doing a great service to many of

those hard-working servers if we can start to protect their tips earlier rather than later.

I cannot support six months. If it passes, so be it, but I think three months is sufficient to get the word out.

The Chair (Mr. Garfield Dunlop): Further debate? I'm going to call the question, then, on—

Mr. Todd Smith: Chair, could I just call for a 15-minute recess prior to the vote?

The Chair (Mr. Garfield Dunlop): Prior to the vote, yes. The vote will come immediately when we come back. Okay?

Mr. Todd Smith: Yes.

The Chair (Mr. Garfield Dunlop): Thank you. A 15-minute recess.

The committee recessed from 1423 to 1438.

The Chair (Mr. Garfield Dunlop): Okay, let's call the meeting back to order. We'll call the vote now on NDP motion—

The Clerk of the Committee (Mr. Trevor Day): Government motion.

The Chair (Mr. Garfield Dunlop): I'm sorry, on the government motion number 2. All those in favour of government motion number 2? Those opposed to government motion 2? The motion carries.

The NDP motion—

Mr. Michael Prue: I can't move it, I believe, because we've just passed the motion for six months; I can't pass one for three.

The Chair (Mr. Garfield Dunlop): Okay, so it's withdrawn?

Mr. Michael Prue: Yes, it's redundant.

The Chair (Mr. Garfield Dunlop): Shall section 2, as amended, carry? Carried.

There are no amendments on section 3. Shall section 3 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 49, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Mr. Todd Smith: Chair, can I call for a motion to adjourn?

The Chair (Mr. Garfield Dunlop): You don't need one; I'm going to adjourn right now.

Mr. Todd Smith: I'd like to adjourn. Can we vote on that?

The Chair (Mr. Garfield Dunlop): This meeting is adjourned.

The committee adjourned at 1439.

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Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Wednesday 11 December 2013

Journal des débats (Hansard)

Mercredi 11 décembre 2013

Standing Committee on the Legislative Assembly

French Language Services
Amendment Act
(French Language Services
Commissioner), 2013

Comité permanent de l'Assemblée législative

Loi de 2013 modifiant
la Loi sur les services en français
(commissaire aux services
en français)

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 11 December 2013

Mercredi 11 décembre 2013

*The committee met at 1205 in committee room 1.*FRENCH LANGUAGE SERVICES
AMENDMENT ACT
(FRENCH LANGUAGE SERVICES
COMMISSIONER), 2013LOI DE 2013 MODIFIANT
LA LOI SUR LES SERVICES EN FRANÇAIS
(COMMISSAIRE AUX SERVICES
EN FRANÇAIS)

Consideration of the following bill:

Bill 106, An Act to amend the French Language Services Act with respect to the French Language Services Commissioner / Projet de loi 106, Loi modifiant la Loi sur les services en français en ce qui concerne le commissaire aux services en français.

CANADIAN PARENTS FOR
FRENCH (ONTARIO)

The Chair (Mr. Garfield Dunlop): Good afternoon, everyone.

Mr. John Fraser: Chair, on a point of order.

The Chair (Mr. Garfield Dunlop): Yes?

Mr. John Fraser: I just want to let the committee know that I'll be putting forward a motion and, out of respect for the fact that we have people coming to make presentations today, I'll be doing that after the conclusion of their presentations and our questions.

The Chair (Mr. Garfield Dunlop): Yes. Fine. Thank you.

Mr. John Fraser: Thank you.

The Chair (Mr. Garfield Dunlop): Welcome, everyone. We're here to do standing committee hearings on Bill 106, An Act to amend the French Language Services Act with respect to the French Language Services Commissioner. We have four deputations. They each have 15 minutes, starting with Canadian Parents for French, Ontario branch. Mary Cruden, president, will be making the presentation. Mary, you have five minutes.

Interjections.

The Chair (Mr. Garfield Dunlop): And for translation, if you go to number two, you'll get the English version.

You can go ahead.

Ms. Mary Cruden: Okay. There we go. Good afternoon, I guess. My name is Mary Cruden, and I'm the volunteer president of the Ontario branch of Canadian Parents for French. I am joined by our executive director, Betty Gormley.

Nous sommes fières d'être présentes ici pour appuyer le projet de loi 106. We are proud to be here to support Bill 106.

Canadian Parents for French is a national network of thousands of volunteers who value French as an integral part of Canada. We are dedicated to the promotion and creation of French-second-language learning opportunities for young Canadians. Our vision is a Canada where French and English speakers live together in mutual respect with an understanding and appreciation of each other's language and culture and where linguistic duality forms an integral part of society.

Our organization was founded in 1977 with a huge assist by the first federal Commissioner of Official Languages, Keith Spicer. Commissioner Spicer understood that parents would recognize and desire the advantages of bilingualism for their children and could become a large force in education to make that happen.

A strong majority of Canadians and Ontarians support official language bilingualism. Decima research reports that approximately 70% of Canadians believe that having two official languages has made Canada a more welcoming place for immigrants from different cultures and ethnic backgrounds and that living in a country with two official languages is one of the things that really defines what it means to be Canadian. Approximately two thirds of Ontarians support bilingualism for all of Canada and for our province. This support has grown significantly in recent years.

In order to live up to the promise and ideal of bilingualism, we must protect minority francophone rights in Ontario. By adopting Bill 106 and making the commissioner of French-language services an officer of the Legislature, you, our members of provincial Parliament, will be accepting this responsibility on behalf of all Ontarians.

In the words of Graham Fraser, our federal Commissioner of Official Languages, « La dualité linguistique fait partie de notre identité commune. Cette double identité appartient à tous les Canadiens et même à ceux qui ne parlent pas les deux langues. »

In English, “Linguistic duality is part of our common identity. This dual identity belongs to all Canadians, even those who don’t speak both languages.”

Our wish today is to see across-the-aisle co-operation, speedy clause-by-clause and a speedy passage of Bill 106. This will be a lasting accomplishment for this session of the Legislature, an accomplishment all Ontarians can be proud of and an inspiration to the rest of Canada, who will see that Ontario is protecting the language rights of our francophone citizens in this exemplary manner. Thank you very much.

The Chair (Mr. Garfield Dunlop): Well, thank you very much for your presentation. We’ll now go to the government’s got a full group of people. You have three minutes for questioning. Any of the government members?

M. Phil McNeely: Merci. Je vais prendre la parole. Je suis le représentant d’Ottawa–Orléans, MPP. Notre communauté, on est 100 000 personnes et plus, et au moins 35 % de nos citoyens sont francophones. Le passage que vous avez mentionné, « La dualité linguistique fait partie de notre identité commune. Cette double identité appartient à tous les Canadiens et même à ceux qui ne parlent pas les deux langues » : à Orléans, le français est vu dans tous les départements, dans les arts, dans les écoles et les commerces. Je peux dire que c’est un vrai succès à Orléans. Merci de votre ouvrage pour aider la francophonie dans la province de l’Ontario.

M^{me} Mary Cruden: Merci bien.

M. Phil McNeely: Avez-vous des commentaires?

Ms. Mary Cruden: I did live in Ottawa at one point and certainly do see linguistic duality on a daily basis. It’s a little harder when you get farther away from the areas of concentration of la francophonie, but that’s one of the things that we try to do as an organization: help make that a reality in every corner of Ontario, particularly for our young people.

M. Phil McNeely: Merci pour votre ouvrage.

The Chair (Mr. Garfield Dunlop): Further questions? Mr. Pettapiece, do you have any questions at this point?

Mr. Randy Pettapiece: No, thanks.

The Chair (Mr. Garfield Dunlop): Okay. I’ll go to the third party. Do you have any questions?

M. Michael Mantha: Bonjour. Merci d’être venues nous voir ce matin. J’aurais une petite question à vous poser. Une fois que le bureau du commissaire sera établi et une fois qu’il sera mis en place, qu’est-ce que vous vous attendez à recevoir?

Ms. Mary Cruden: Well, I think it is in our vision for Canada that French and English speakers live together in mutual respect. I think that by making the commissioner an officer of the Legislature, that will be ensured across the province. That won’t be our personal achievement as an organization, but it’s one that we think reflects the true nature of Canada and, certainly, of our membership.

M. Michael Mantha: Est-ce que vous pensez que la période de possiblement un an, allant jusqu’à deux ans au maximum, est une période adéquate pour qu’un

représentant donne un rapport, donne un service ou travaille de la part des francophones?

M^{me} Mary Cruden: Est-ce que j’ai le droit de passer la parole à Betty?

The Chair (Mr. Garfield Dunlop): Of course, yes.

M^{me} Betty Gormley: La question, c’est au sujet de la période?

M. Michael Mantha: Oui, la période. Est-ce que vous pensez que la période pendant laquelle le commissaire va être assis au groupe, une période de deux ans au maximum, est adéquate pour rendre service?

M^{me} Betty Gormley: On n’a vraiment pas de réponse au sujet. Une période de deux ans : on n’a pas fait d’études sur la période. Notre but c’était d’appuyer le concept, alors pas de commentaires sur la période.

M. Michael Mantha: Dans le projet de loi présentement, est-ce que vous avez un aperçu d’un ajout qui pourrait être mis au projet de loi pour le renforcer encore plus?

Is there anything within the existing bill that you would like to see that would make it that much stronger?

Ms. Mary Cruden: Well, clearly my organization—and me in particular; I don’t have expertise in writing laws, but what I do see is that it captures the most important thing, which is making the commissioner an officer of the Legislature. That is, to my understanding, the objective of the bill, and it appears to me that it meets that objective. I think that that is the most important thing in this work that you’re doing today.

Mr. Michael Mantha: Do you believe that the francophone community should have a say with regard to what the commissioner’s priorities will be?

Ms. Mary Cruden: Over the last couple of years, I have gotten to know the current commissioner fairly well, and I think he is a great listener. I think that is one of his roles in the community. He’s an outstanding example of a public figure who listens to people who may not be able to fully articulate their thoughts, ideas, solutions or problems. These are complex issues, but he listens very well. I think in his annual reports he has shared directly with the minister of francophone affairs, but obviously with everyone in this room, how to move forward to meet the requirements of French-language services in Ontario.

The Chair (Mr. Garfield Dunlop): And that will conclude your time. Thank you very much, Ms. Cruden.

ASSOCIATION DES JURISTES D’EXPRESSION FRANÇAISE DE L’ONTARIO

The Chair (Mr. Garfield Dunlop): We’ll now go to the next presenter, the Association des juristes d’expression française de l’Ontario, Paul Le Vay, le président. Mr. Le Vay?

M. Paul Le Vay: Oui, merci, monsieur le Président. Si je peux me permettre, je vous adresserai la parole en français aujourd’hui, mais je suis content de prendre des questions dans les deux langues officielles.

Pour vous présenter brièvement notre association, l'AJEFO est forte de plus de 800 membres et oeuvre depuis plus de 30 ans à favoriser l'accès à la justice en français en Ontario de par la formation professionnelle, la vulgarisation des notions juridiques complexes ou faire connaître le système juridique canadien, et on travaille sur tous ces fronts pour un meilleur accès à la justice en français dans notre province.

Alors, l'AJEFO appuie fortement le projet de loi que vous avez devant vous aujourd'hui.

Interjections.

The Chair (Mr. Garfield Dunlop): Excuse me, guys. It's hard to hear with everybody talking, okay?

M. Paul Le Vay: Je peux attendre.

The Chair (Mr. Garfield Dunlop): No, please proceed.

M. Paul Le Vay: Merci. Alors, selon nous cette loi permettrait au commissaire de relever directement de l'Assemblée, et malgré le fait que le gouvernement de l'Ontario lui avait accordé un large mandat, une indépendance d'action significative, cette modification du statut du commissaire, à notre avis, est importante pour préserver de façon inaliénable les droits des francophones en Ontario pour plusieurs raisons.

Alors, d'abord, le statut que le titulaire du poste aurait sous cette nouvelle loi faciliterait les fonctions nécessaires pour garder le cap sur une mise en oeuvre efficace de la loi. Comme le dit le commissaire Boileau lui-même : « Il est important, voire essentiel, d'avoir les coudées franches » en remplissant ces fonctions. « Et avoir les coudées franches signifie être en mesure d'agir en fonction de ses connaissances, de ses observations et de son indépendance d'esprit. »

En plus, avoir un commissaire indépendant qui répond directement aux parlementaires aiderait grandement à conserver l'intérêt des fonctionnaires et des hauts fonctionnaires pour le respect de la loi. Le commissaire ne serait plus au service du gouvernement, mais bien au service de l'Assemblée des parlementaires, de vous, et donc, de par vous, de la population ontarienne, ce qui est très important, à notre avis.

Il y a aussi des raisons juridiques importantes, et je voudrais prendre le reste de mon temps pour vous en parler un peu. Comme l'exprime le commissaire dans son rapport : « En tant qu'organisme du gouvernement, et puisqu'il n'est pas indépendant » en ce moment, il « ne peut, en théorie, rechercher des avis juridiques externes, autres que » de par le procureur général de l'Ontario. Et, bien sûr, les avocats du procureur sont formés et émettent des opinions objectives, et respectent la loi. Mais, cela dit, ça ne peut pas dissiper une perception d'une absence d'indépendance du commissaire face au gouvernement, y compris des questions d'ordre juridique, et donc, il y a maintenant un protocole d'entente entre le bureau du procureur général et le commissaire qui a été conclu afin de permettre ce dernier de demander des avis juridiques externes pour tout ce qui touche l'interprétation de la Loi sur les services en français. Mais ce protocole est

vulnérable parce que ou une partie ou l'autre peut le résilier à tout moment.

L'importance de tout ceci ne peut être compris que si on se rappelle du double objectif de la Loi sur les services en français, à savoir protéger la minorité francophone en Ontario et faire progresser le français en favorisant son égalité avec l'anglais et le statut spécial de cette loi. Les tribunaux ontariens se sont prononcés sur cette question. Dans l'arrêt Montfort, la cour a parlé de la loi comme un exemple d'utilisation de votre Assemblée de l'article 16(3) de la Charte canadienne des droits et libertés pour enrichir les droits linguistiques garantis par la Constitution et par la charte pour faire progresser l'égalité du statut et de l'emploi du français. Ce statut spécial de la loi sera protégé de façon efficace par cette loi qui est devant vous. D'ailleurs, on peut regarder toutes les autres juridictions du Canada qui ont un commissaire aux langues. Le fédéral, le Nouveau-Brunswick, le Nunavut et les Territoires du Nord-Ouest ont tous un commissaire qui relève de leur Parlement et de leur Assemblée. C'est le temps que l'Ontario en fasse de même.

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Je vous remercie, monsieur le Président, de votre temps aujourd'hui.

The Chair (Mr. Garfield Dunlop): Thank you very much. Merci. We'll now go to the official opposition. You have three minutes, Ms. MacLeod.

Ms. Lisa MacLeod: Thank you very much. I appreciate you coming here today. Merci beaucoup. Is it your opinion that we should proceed today with haste to get this bill passed, not only through committee, but also in the assembly?

Mr. Paul Le Vay: Yes, that's very much our view. Our association has supported this change to the law since 2007. In our view, it's time to proceed. Our view is that the bill, as currently proposed, is just fine. We wouldn't like to see a triumph of form over substance. The substance is really the legal protections that have advanced.

Ms. Lisa MacLeod: We'll move today in haste in the Ontario PC Party to see that that happens. Thank you.

The Chair (Mr. Garfield Dunlop): Any further questions?

Ms. Lisa MacLeod: No.

The Chair (Mr. Garfield Dunlop): Thank you very much, Ms. MacLeod. We'll now go to the third party. Mr. Mantha?

M. Michael Mantha: Merci beaucoup de venir nous rejoindre aujourd'hui. J'aimerais que vous élaboriez sur les commentaires que vous avez faits de protéger et de faire la promotion linguistique et l'égalité de la langue française. Pourriez-vous élaborer un peu sur vos commentaires, ce que vous avez indiqué là-dessus? Qu'est-ce que ça veut dire pour vous et pour les communautés francophones?

M. Paul Le Vay: Je peux vous donner un exemple très concret où le commissaire a joué un rôle très important. Dans son rapport de 2008-2009, le

commissaire a parlé de certaines plaintes qu'il a reçues au niveau des justiciables et de l'accès à la justice en français devant les tribunaux de l'Ontario : les gens qui ont essayé d'aller exercer leurs droits sous la Loi sur les services en français et la Loi sur les tribunaux judiciaires, qui garantit l'accès bilingue aux tribunaux de l'Ontario.

Il a demandé au procureur général de l'Ontario de former un comité de la magistrature et du barreau pour étudier ce problème. J'ai co-présidé ce comité avec le juge Paul Rouleau de la Cour d'appel de l'Ontario. Nous avons rendu un rapport au procureur général en 2012. Le commissaire et le procureur général ensemble ont annoncé un comité pour faire la mise en oeuvre de ces recommandations.

Donc, voilà, de façon très concrète, un exemple de comment les intérêts des francophones sont mis à l'avant.

M. Michael Mantha: Est-ce que vous auriez un point de vue—je comprends que vous avez dit que le projet de loi, comme il est écrit présentement, est satisfaisant. Est-ce que vous voyez quelque chose qui pourrait l'améliorer encore plus?

Mr. Paul Le Vay: Franchement, nous n'avons pas de soumission sur cette question-là. Pour nous, ce qui est davantage important c'est d'établir ce statut.

M. Michael Mantha: Une fois que le commissaire sera établi, croyez-vous qu'un comité de consultation serait une bonne étape ou un bon déroulement pour aviser le commissaire?

Mr. Paul Le Vay: Ça, je crois qu'il faut en premier lieu le demander au commissaire. Vous avez un commissaire très expérimenté. Je voudrais appuyer ce qu'a dit la personne qui est intervenue avant moi. Mon expérience avec le commissaire Boileau : c'est quelqu'un qui écoute bien, qui a beaucoup de connexions dans la communauté francophone de l'Ontario. Je crois qu'il consulte autant, sinon plus, que n'importe qui d'autre. S'il ressent le besoin d'un processus de consultation, je pense qu'il faudrait l'écouter.

M. Michael Mantha: Une dernière petite question : comment voyez-vous l'impact de ce projet de loi-ci pour améliorer la vie des enfants francophones dans nos écoles, et puis, comment est-ce que ceci va renforcer les services francophones?

Mr. Paul Le Vay: Pour votre première question, je ne me sens pas de taille expert pour en parler spécifiquement de cette question-là de l'éducation. Pour ce qui en est de façon générale, c'est comme j'ai dit dans mon énoncé : ça donnerait une indépendance additionnelle et importante au commissaire pour parler au nom des droits des francophones. C'est vraiment ce rôle institutionnel-là de parler au nom des francophones de façon forte et indépendante que, je pense, pourrait changer. Si jamais il y a des accoudements avec le gouvernement, le commissaire aurait une voix plus indépendante. Ça, je pense, aiderait directement la population.

The Chair (Mr. Garfield Dunlop): Thank you. Merci. We'll now go to the government members. Any questions?

Mr. John Fraser: Merci pour votre présentation. Je parle français un peu et je travaille fort pour améliorer mon français. I'm going to ask my questions in English, so I can be more specific and articulate, if we could describe it as that.

Mr. Paul Le Vay: That's fine.

Mr. John Fraser: I understand from your presentation that there's not only the symbolic importance of being an officer of the Legislature and reporting to us as members, but more specifically, for people in our ridings, especially in eastern Ontario where we have a very high francophone population, when you have situations where there are government interventions—say back under a previous government when they were closing the Montfort hospital. In real terms, if you had a situation similar to that right now, how would that impact? In those situations, there was a long, protracted legal case that required a significant investment from the francophone community—and the community at large, quite frankly—to go through that court case. With this legislation and the commissioner's new independence, how would that impact something like that?

Mr. Paul Le Vay: Well, frankly, whether in similar circumstances another lawsuit was necessary would really be up to you folks, but in concrete terms, the rights would be advanced more effectively in that circumstance. The Montfort hospital, you'll remember, was a provision of the French Language Services Act that was directly an issue and that the Court of Appeal treated in that case.

So before it ever got to the courtroom steps, as an officer of the Legislature, the commissioner would report to you and tell you his point of view on how the law would be properly applied. That would provide a voice to francophone Ontarians in that circumstance, and it would give you as legislators additional important input—not that he wouldn't do that now, but he would do that inside an office that was independent of the government. I think that's the importance for Ontarians.

Mr. John Fraser: Thank you. I don't know if my colleagues have any questions.

The Chair (Mr. Garfield Dunlop): Any government members? Okay. Thank you very much for your presentation today. It's very much appreciated.

Mr. Paul Le Vay: And I apologize for having to leave. I have to be in court at 2 o'clock, but thank you very much for hearing me.

Ms. Lisa MacLeod: As long as you're not taking any of us with you.

The Chair (Mr. Garfield Dunlop): Thank you very much.

M^{ME} ROXANE VILLENEUVE ROBERTSON

The Chair (Mr. Garfield Dunlop): Our next presenter is Roxane Villeneuve Robertson. Ms. Robertson, you have five minutes for your presentation.

M^{me} Roxane Villeneuve Robertson: Good afternoon. Thank you, Mr. Chair. I am here today not representing one specific group, but rather representing over 650,000

Franco-Ontarians in this province, and I'm certainly very proud to be doing that. My presentation will also be solely in French; however, I can certainly answer questions in English if you prefer.

Je vous remercie pour cette occasion d'adresser la parole au comité concernant mon appui au projet de loi 106 cet après-midi. Je souhaite aussi un bon après-midi à tous les membres du comité, provenant de toutes les options politiques.

C'est pour moi un moment électrisant de pouvoir vous adresser la parole en appui au projet de loi 106, une loi modifiant la Loi sur les services en français afférant au commissaire des services en langue française. Cette loi voit à amender la loi des services en français afin d'assurer que le commissaire des services en langue française soit reconnu comme étant un fonctionnaire de l'Assemblée, nommé par le lieutenant-gouverneur en conseil, afin d'adresser la parole à l'Assemblée.

Étant une fière Franco-Ontarienne, j'appuis entièrement cette loi d'une importance capitale. Dans notre famille, nous étions cinq enfants et nous avons grandi sur la ferme familiale dans l'est de l'Ontario. Mon père a toujours exigé que nous parlions le français sous notre toit. Il a vu aussi à ce que nous puissions partager bon nombre de traditions françaises, surtout lors des réveillons où on chantait des chansons à répondre et on dansait des danses carrées.

Notre mère s'exprimait en anglais seulement, mais lorsque nous nous adressions à notre père, il était clair qu'on devait toujours lui parler en français. Je savais clairement que lorsque papa était à la maison, c'était en français que ça se passait.

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Tous les cinq enfants ont étudié à l'École élémentaire catholique La Source de Moose Creek. Je suis fière de dire que mon père était un membre de la commission scolaire et qu'il a travaillé d'arrache-pied afin d'établir une école francophone dans mon petit village.

Mon père, Noble Villeneuve, a servi à titre de membre de l'Assemblée provinciale pour la circonscription de Stormont-Dundas-Glengarry et East Grenville de 1983 à 1999. Au cours de son dernier mandat, soit de 1995 à 1999, il a servi fièrement à titre de ministre de l'Agriculture, de l'Alimentation et des Affaires rurales, en plus de détenir le portefeuille de ministre des affaires francophones. Il démontrait clairement combien il était fier d'être francophone alors qu'il adressait l'Assemblée législative en français. Pour lui, c'était un grand honneur de représenter fortement et fièrement tous les francophones de notre province, et je ne peux faire autrement que d'être fière, à mon tour, de tout le travail qu'il a accompli dans la promotion de notre moyen d'expression si beau et si grand.

Nous sommes, mon mari, James, et moi, les fiers parents de deux beaux, grands garçons. Ils ont tous deux vu le jour à l'Hôpital Montfort d'Ottawa. Cet hôpital est une institution universitaire francophone qui offre des soins de grande qualité et ce, dans les deux langues

officielles. Mon expérience à cet hôpital est sans nulle autre pareille.

J'ai tout récemment eu l'opportunité de visiter l'Hôpital Montfort à nouveau, et j'ai pu passer quelques heures avec le D^r Bernard Leduc, le président-directeur général de l'institution, ainsi qu'avec M. Alain-Michel Sékula, le président du conseil d'administration de l'hôpital. L'institution est superbe et sert les besoins de santé des résidents de l'est ontarien avec le plus haut degré de compétence et de compassion.

Tout comme mes parents, j'ai enrôlé mes garçons dans des écoles francophones. Mon fils aîné, Dawson, est en neuvième année à l'École secondaire catholique de Casselman, alors que mon fils cadet, Graham, fréquente l'École élémentaire catholique La Source et est en sixième année. Dawson aimerait poursuivre ses études en français à l'Université d'Ottawa avec l'objectif de devenir un professeur en éducation physique dans une école francophone. Pour sa part, Graham est à la recherche de ses ambitions futures, peut-être même un centre ou ailier dans la Ligue nationale de hockey.

Tout récemment, j'ai eu l'honneur de mener une table ronde dans la région d'Ottawa-Orléans. Environ 20 représentants de la communauté francophone y étaient présents, provenant d'un éventail intéressant de disciplines, incluant le milieu scolaire, les soins de la santé, le secteur socio-économique, l'immigration francophone, les aînés, et j'en passe. Tous ont participé activement à la discussion, qui a duré plus d'une heure. Le groupe a partagé ses idées concernant leurs succès et leurs défis. Parmi tous les facteurs affectant leur progrès, on retrouvait un problème commun, soit celui du financement pour la promotion et pour les services en langue française dans chacun des secteurs abordés.

De plus, au cours de l'été dernier, j'ai eu l'opportunité de visiter avec les francophones de Simcoe-Nord. Là aussi, j'ai eu une table ronde avec eux. La chose la plus importante à cette table ronde était de maintenir des postes de radiodiffusion forts et dynamiques dans leurs communautés.

En dernier lieu, mais non le moindre, j'aimerais dire un grand merci à la ministre Meilleur pour avoir mis ce projet de loi de l'avant et d'avoir assuré qu'il soit de la plus grande importance pour nous tous et toutes. Merci.

The Chair (Mr. Garfield Dunlop): Thank you. Merci, madame Villeneuve. I have to ask you, will Graham play with the Leafs or the Senators?

Ms. Roxane Villeneuve Robertson: I hope the Sens.

Ms. Lisa MacLeod: Good answer.

Interjections.

Ms. Roxane Villeneuve Robertson: Preferably.

The Chair (Mr. Garfield Dunlop): I will now go to the third party to begin questioning. You have three minutes. Mr. Mantha?

M. Michael Mantha: Tu viens juste de me blesser le cœur.

M^{me} Roxane Villeneuve Robertson: Non, non, non, jamais.

M. Michael Mantha: Pour ma femme, elle est une grande Sens « fan ». Moi, je suis partisan de Toronto, puis j'ai un de mes garçons qui est parti sur le bord de Montréal. Je ne voulais rien que de vous laisser savoir.

C'est super bon de voir les valeurs familiales que vous avez. Je ne sais pas si vous jouez des cuillères aussi dans le temps de célébration.

M^{me} Roxane Villeneuve Robertson: Oui, c'est certain.

M. Michael Mantha: Je vois ça. Mon père embarquait sur la chaise puis ça jouait des cuillères. On avait un fun—une affaire effrayante.

Là, je vous laissais à savoir aussi que je partage vos valeurs. Mes enfants aussi sont allés à des écoles françaises, et autant qu'on aurait aimé qu'ils poursuivent leur éducation aux niveaux collégial et universitaire, les cours ne sont justement pas donnés. Roch et Matthieu, les deux sont allés à Villa Française des Jeunes et puis à Georges Vanier à leur école primaire.

Deux questions que je voulais vous poser : un, dans le projet de loi lui-même, est-ce que vous voyez une chance de le renforcer encore plus davantage?

M^{me} Roxane Villeneuve Robertson: Il y a toujours une chance de renforcer un projet de loi, mais comme tout début, pour que le commissaire se présente à chaque membre de l'Assemblée et non seulement au ministre des affaires francophones, ça ouvre une grande porte. C'est un tout début, et il y a toujours façon d'établir des meilleures façons, mais comme un tout début, c'est super bon.

M. Michael Mantha: Il y aurait quoi? Quelle sorte de suggestion verriez-vous qui pourrait l'améliorer ou le renforcer encore plus davantage?

M^{me} Roxane Villeneuve Robertson: À ce moment, je dirais que la chose la plus importante est de promouvoir la langue elle-même. C'est un début de garder notre langue. Nous sommes au-dessus de 650 000 francophones et francophiles dans la province. C'est important de garder l'héritage, de garder notre langue et de garder nos écoles francophones. C'est très important dans notre société.

M. Michael Mantha: Dans l'établissement du commissaire, est-ce que vous voyez un avantage à aller à la communauté francophone pour établir les priorités pour l'office du commissaire?

M^{me} Roxane Villeneuve Robertson: C'est certain.

M. Michael Mantha: C'est certain?

M^{me} Roxane Villeneuve Robertson: C'est certain. Si on ne demande pas, par exemple, à l'AFO leurs opinions sur certaines affaires—on est un groupe de 650 000 personnes et on a besoin de toutes nos idées pour renforcer la position du commissaire de la langue française pour qu'il puisse aider à promouvoir les valeurs francophones et la langue française.

M. Michael Mantha: Est-ce que vous voyez un avantage à établir un comité pour aviser ce que le rôle du commissaire va être?

M^{me} Roxane Villeneuve Robertson: Peut-être. Ça, on peut en parler plus tard. En ce moment-ci, c'est de

garder le rôle de la loi 106 au commissaire qui se rapporte au comité législatif et non seulement au ministre. Donc, le focus est là-dessus.

M. Michael Mantha: La période d'appointement pour le commissaire est d'un an avec un maximum de deux ans. Est-ce que vous voyez ça comme une période satisfaisante pour qu'il puisse établir un genre de ligne de communication pour établir des objectifs et pour avoir un focus sur la langue française?

M^{me} Roxane Villeneuve Robertson: À ce point-ci, je n'ai pas vraiment de décision là-dessus, mais je dirais que deux ans est amplement de temps pour faire des études là-dessus. Peut-être que le président de l'AFO pourrait vous répondre mieux que moi. Par contre, je ne vois pas que durant les deux ans—qu'au moins au début, des comités se déroulent et puis les décisions sont faites à la fin de la deuxième année.

M. Michael Mantha: OK. Merci beaucoup.

The Chair (Mr. Garfield Dunlop): Thank you. Merci. We'll now go to the government members for questions. Mr. Crack?

Mr. Grant Crack: Thank you very much, Mr. Chair, and thank you very much, Roxane, for being here and for your presentation. Comme adjoint parlementaire pour l'honorable Madeleine Meilleur, la ministre déléguée aux Affaires francophones, je suis très content que ce projet de loi est devant nous aujourd'hui. Je voudrais remercier en même temps M^{me} Meilleur pour son dévouement à notre communauté francophone en Ontario et dans ma circonscription de Glengarry—Prescott—Russell.

Ms. Villeneuve Robertson, you had talked about your father, the former minister of francophone affairs, and of agriculture, food and rural affairs, as well. I had the opportunity to work with the honourable minister when I was mayor, back in the late 1990s.

I can recall when the issue of the Montfort hospital came forward, and our council of Alexandria, at the time—the population of North Glengarry and Alexandria, in particular, was about 3,500; 60% are francophone—vehemently opposed the closure of the Montfort hospital. It's something that really engaged the francophone community in my riding of Glengarry—Prescott—Russell.

What I can say is, since the time that that ill-fated decision was reversed, our government has invested heavily in the francophone community. In the Montfort hospital, we've doubled the amount of beds. It's now a teaching hospital as well.

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To have a French Language Services Commissioner as an office of the assembly, I think, is a very good thing. I'm very, very supportive of that. Perhaps I could just ask Ms. Villeneuve Robertson if she thinks that we should have speedy passage of this particular piece of legislation.

Ms. Roxane Villeneuve Robertson: Well, thank you for the question, Mr. Crack. Certainly, Hôpital Montfort is one of the most leading hospitals in this province. In my speech, I disclosed that I delivered my two children at that hospital. The service was impeccable. We just

recently were able to tour the Montfort Hospital with the president of the administration, as well as with the president of the medical side of things. From the time that I delivered my children to today, the improvements in the facility have been tremendous.

Yes, I think it's important that we pass this bill—speedy passage of it. It will benefit every francophone and francophile in this province if we do so.

The Chair (Mr. Garfield Dunlop): You've got a few seconds. Mr. Fraser.

Mr. John Fraser: Quick question: So as you see, the bill should pass unamended, as is?

Ms. Roxane Villeneuve Robertson: Yes.

Mr. John Fraser: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Fraser. That concludes—no, sorry. We now go to the official opposition. Mr. Pettapiece.

Mr. Randy Pettapiece: Thank you, Chair. Welcome.

Ms. Roxane Villeneuve Robertson: Thank you.

Mr. Randy Pettapiece: I just want to add my comments. I never met your father, but he was a respected member of this caucus and certainly a respected legislator in the province of Ontario. I would hope you would pass that on to him the next time you see him.

Ms. Roxane Villeneuve Robertson: I certainly will. Thank you.

Mr. Randy Pettapiece: We also want to ask a question about speedy passage of this bill. We would certainly like to say to you that our caucus is committed to this. What's the importance of speedy passage of this bill to you?

Ms. Roxane Villeneuve Robertson: Well, if I can use the term “no-brainer,” it's a bill that—

Mr. Randy Pettapiece: You looked at me when you said that.

Ms. Lisa MacLeod: He caught on.

Ms. Roxane Villeneuve Robertson: It gives the commissioner the authority to report to the entire Legislative Assembly. It creates openness, a clear accountability, as opposed to reporting directly to the minister.

Why it has taken so long to come to fruition is certainly inexplicable, but it gives every MPP the capability of getting quicker answers and being an open book with everything. Certainly, that's one of the main reasons why it should pass quickly.

The Chair (Mr. Garfield Dunlop): Ms. MacLeod, did you have—

Ms. Lisa MacLeod: Just one brief thing. Do you have a question?

Interjection: No.

Ms. Lisa MacLeod: I just wanted to let you know your dad would be really proud of you for standing here today and defending this important piece of legislation. I look forward to the speedy passage and I appreciate your comments in that regard. Congratulations.

Ms. Roxane Villeneuve Robertson: Thank you. Merci.

The Chair (Mr. Garfield Dunlop): That concludes your time, so thank you very much, Mademoiselle Villeneuve Robertson.

ASSEMBLÉE DE LA FRANCOPHONIE DE L'ONTARIO

The Chair (Mr. Garfield Dunlop): We'll now go to the Assemblée de la francophonie de l'Ontario: Denis Vaillancourt and Peter Hominuk.

M. Denis Vaillancourt: Monsieur le Président, merci de nous permettre de vous adresser la parole et, d'entrée de jeu, je remercie vos collègues de la législature de prendre le temps de nous écouter. Je veux aussi remercier les présentateurs qui nous ont précédés. Certaines choses, je ne vous répéterai pas. La bonne nouvelle, monsieur le Président, c'est que je vous ai remis une présentation, et je n'ai pas l'intention de la lire. Vous pourrez la retrouver. On vous a élucidé, dans le document, qui nous sommes, le profil de notre communauté, les accomplissements et la vision que nous avons et que nous supportons du commissaire aux services en française et de notre appui au projet de loi.

Avant d'aller plus loin, je veux présenter Peter Hominuk, qui est le directeur général de l'Assemblée de la francophonie de l'Ontario. J'aimerais vous dire que nous représentons 611 500 francophones de cette province, et depuis trois ans maintenant je circule la province, et j'ai travaillé et j'ai rencontré toutes les communautés. J'ai apporté avec moi, pour vous donner une indication si ce projet de loi est important pour la communauté, 400 lettres d'individus des cinq régions de la province qui appuient un passage rapide et expéditif de cette loi. Je vais essayer de vous dire en quelques mots pourquoi c'est important.

La première chose que j'aimerais vous dire par rapport au projet de loi est notre recommandation. C'est clair et je sais que la question a été demandée, mais dans le document, vous verrez à la toute fin qu'il est important pour la communauté, dans l'évolution normale de ce poste et de la Loi sur les services en français, que le commissaire devienne un agent de la législature. Qu'est-ce que ça va faire ça? Ça va faire en sorte que les législateurs, c'est-à-dire vos collègues et tous les membres de la législature ontarienne, prennent la responsabilité d'assurer les services en français. Et si on me demande : « Est-ce que c'est important d'être passé tel quel et aujourd'hui? », je vous dirais que oui. C'est le temps de saisir l'occasion parce que c'est la suite normale des choses. Le caractère indépendant de cet office-là est important et j'en parlerai un petit peu plus dans le but de dire le pourquoi.

Pourquoi c'est important? Bien, je vais commencer avec une citation ou quelque chose. Je vous ne demanderai pas de lever la main, mais je vous poserai la question : connaissez-vous quelqu'un dans votre entourage qui vous aurait dit « J'ai perdu ma langue maternelle »? Si vous connaissez quelqu'un qui a perdu sa langue maternelle, c'est important de réaliser qu'une

langue, ça nous appartient. Au Canada, les deux langues officielles nous appartiennent, qu'on parle les deux ou qu'on en parle qu'une seule, ça fait partie de notre identité. Ça vous a été dit dans une citation tantôt, de là l'importance de la langue.

Personnellement, puis mon collègue ici, on est deux générations de Franco-Ontariens devant vous. Moi, je suis né dans les années 1940, et Peter, pas mal plus après, mais je suis un petit gars de Glengarry. J'ai été élevé dans les deux langues dans le comté de Glengarry, représenté par M. Villeneuve à un certain moment donné, et j'ai grandi dans une province où j'avais toujours l'impression qu'on acceptait ma langue et qu'on me donnait la place de ma langue. Quand je vous dis qu'on—on veut éviter, comme communauté francophone, de perdre notre langue parce qu'on veut la transmettre et on veut transmettre cette identité-là. C'est ce qui fait que l'Ontario est ce qu'il est aujourd'hui.

J'ai une petite citation et je vais vous la dire comme ceci : j'aime dire que les Franco-Ontariens, nous étions là il y a 400 ans et nous célébrerons en 2015 le 400^e anniversaire de la présence française. Nous sommes peut-être minoritaires en nombre, mais nous sommes égaux à la majorité en termes de créativité, de contributions économiques et sociales et, s'il y a quelque chose, la francophonie de l'Ontario est supérieure dans sa détermination de devenir citoyenne et d'être des citoyens à part entière de cette province et de travailler avec la majorité linguistique pour faire en sorte que l'Ontario puisse être la meilleure place pour s'installer, pour vivre et pour tous les succès économiques qu'on puisse y reconnaître.

Donc, l'importance d'une loi comme celle-là et de positionner le commissaire comme un agent de la législature, c'est que ça complète le cadre législatif qui est vu par les francophones et les francophiles. Nous sommes 611 500 francophones en Ontario. L'Ontario est l'endroit et la province au Canada qui attire le plus d'immigration francophone n'importe où, toutes provinces combinées. Nous sommes la plus grande minorité linguistique à l'extérieur du Québec, et l'Ontario a toujours dans le passé—et a l'occasion aujourd'hui de poser un geste de leadership en mettant son commissaire égal aux autres commissaires de la législature et similaire aux autres commissaires, que ce soit au fédéral ou dans les provinces et territoires qu'on vous a mentionnés tantôt.

Qu'est-ce que ça fait pour la jeunesse? Qu'est-ce que ça fait pour la communauté? Moi, je l'ai entendu dans mes visites. J'ai rencontré dans les derniers trois ans 1 500, 2 000 francophones qui me disent : « C'est important que mon gouvernement me reconnaisse comme citoyen à part entière, et si on me reconnaît pour ma langue et si on me reconnaît pour mes contributions, je deviens un meilleur citoyen et je contribue à la vitalité de cette province. » De là, monsieur le Président, l'importance de ce projet de loi qui est un cadre législatif qui cumule les choses. Les gouvernements d'aujourd'hui et du passé ont donné à la communauté les structures

comme les écoles, les services en santé et les services juridiques. Ce que vous faites ici, en adoptant cette loi-là, vous entérinez pour l'avenir, vous assurez la pérennité de l'office du commissaire et des garanties linguistiques que la province offre à ses citoyens.

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The Chair (Mr. Garfield Dunlop): Thank you very much for your time.

Mr. Denis Vaillancourt: I figured that was the time.

The Chair (Mr. Garfield Dunlop): We'll now go to the government members to ask questions. Mr. Crack?

M. Grant Crack: Merci, monsieur Vaillancourt et monsieur Hominuk, pour votre dévouement et votre travail pour promouvoir et défendre la langue française dans notre province, et pour votre rôle avec l'Assemblée de la francophonie de l'Ontario. Je connais bien M. Vaillancourt parce qu'il vient de la même communauté que moi, Alexandria, dans le comté de—

Mr. Denis Vaillancourt: My roots are in Glengarry, too.

M. Grant Crack: Glengarry, qui est proche de mon cœur aussi, et M. Hominuk vient de Limoges, je pense.

M. Denis Vaillancourt: Limoges maintenant.

M. Peter Hominuk: Limoges maintenant, mais originellement de Welland.

M. Grant Crack: Welland, excellent. Madame Forster est la députée de Welland.

Alors, je comprends ce que vous avez dit quand vous parliez de l'importance d'avoir deux langues dans la province. Mes deux enfants, Chloé et Calvin, sont complètement bilingues. Je comprends bien l'importance, et je continue moi-même d'améliorer mon français aussi.

Comme vous le savez, ma circonscription est 70 % francophone. C'est la plus grande dans la province. La communauté est très, très solide et unie. De quelle manière est-ce que le commissaire aide les communautés francophones, selon vous?

M. Denis Vaillancourt: Et qu'il est connu?

M. Grant Crack: De quelle manière est-ce que le commissaire aide les communautés francophones, selon vous?

M. Denis Vaillancourt: Alors, l'appui que le commissaire donne est en commandant des études, et surtout en répondant aux plaintes, parce que, comme vous le savez, la Loi sur les services en français permet, et selon les zones désignées, l'accès à des services du gouvernement et des tierces parties en français. Le commissaire a mis en place une structure par laquelle, si on est mal servi, on peut s'y référer, et le commissaire souvent joue le rôle du médiateur pour améliorer les services pour s'assurer que dans des occasions suivantes, les services s'améliorent. On l'a vu travailler avec des agences gouvernementales pour trouver des moyens de mettre ces services-là.

Alors, ce que le commissaire a fait, dans un premier lieu, il essaie d'améliorer, avec les agences gouvernementales et avec la communauté, les services qui sont disponibles en donnant des suggestions. Et en bout de ligne, quand cela ne suffit pas, là il va faire des

recommandations, et on en connaît, dans ses rapports annuels. Il a fait, il y a deux ou trois ans, dans la question des services en santé un rapport spécial sur les problèmes en santé. Il a fait un rapport spécial sur les besoins en éducation postsecondaire dans le centre-sud de l'Ontario. C'est ce rôle-là que le commissaire—il aide à donner à la communauté une parole et un accès aux services, et en faisant ça, la communauté, surtout si le commissaire devient indépendant et un agent de la législature, ressent que la législature se responsabilise pour les services aux citoyens francophones comme des citoyens à part entière.

C'est la grande contribution que le poste de commissaire nous apporte.

Mr. Grant Crack: Okay, merci.

The Chair (Mr. Garfield Dunlop): That does conclude your time. Thank you.

We'll now go to the official opposition.

Ms. Lisa MacLeod: Thank you very much, monsieur le Président. It's very nice to see both of you again, Peter and Denis. I just wanted to assure you of our support here in the Ontario PC Party. If we are able to get through clause-by-clause today, we would support a motion in the House today to see that this passes third reading. I hope you would be supportive of that.

Mr. Denis Vaillancourt: We certainly appreciate that. Thank you.

Ms. Lisa MacLeod: Well, have a wonderful day, and thanks for coming.

The Chair (Mr. Garfield Dunlop): Okay, any other questions?

We'll now go to the third party. Mr. Mantha?

M. Michael Mantha: Merci beaucoup d'être venus nous rejoindre aujourd'hui. C'est tout le temps un plaisir de voir M. Vaillancourt et puis Peter. On se rit tout le temps ensemble.

Je suis une personne qui est vraiment identifiée avec ma langue française. C'est tout le temps une belle histoire qu'on a à raconter. Je vois qu'on cherche, les francophones, tout le temps à développer—à développer notre foi, développer notre langue, identifier ce qui on est. Ça nous donne vraiment des valeurs, un sens non seulement de notre famille, de notre maison, mais la famille francophone, la famille francophile.

Je veux seulement vous laisser savoir qu'on ne va pas être un obstacle. On va trouver une façon d'avancer celui-ci, mais l'histoire est tout le temps intéressante quand on la raconte. Je veux vraiment mentionner M^{me} France Gélinas, la députée de Nickel Belt, qui a présenté ce projet de loi ici tout pour mot. S'il y a quelqu'un qui mérite une victoire aujourd'hui, c'est France, pour avoir mis le parcours et établi le chemin pour où on est aujourd'hui. C'est vraiment une victoire pour elle et pour la communauté francophone, ce qui fait qu'on ne sera pas un obstacle. Vous pouvez être certain qu'on va vous aider et qu'on va l'avancer, ce projet de loi.

Je n'ai vraiment pas de question pour vous. Je sais l'ouvrage que vous avez mis dans ce projet-ci. Je le sais parce qu'on s'est assis, on s'est parlé et on s'est entendu. Félicitations à vous. Je veux aussi féliciter M^{me} Mary

Cruden, qui est venue, M. Paul Le Vay et M^{me} Roxane Villeneuve Robertson. Merci à tous pour vos présentations aujourd'hui. C'était vraiment idéal, et c'est le temps de passer le chemin. Let's go.

The Chair (Mr. Garfield Dunlop): Any further questions?

M. Denis Vaillancourt: Je pensais qu'il me poserait une question, mais je voulais quand même reconnaître, en effet, monsieur Mantha, le travail de votre collègue France Gélinas et de votre parti. Je voulais aussi reconnaître le travail de tous les partis autour de cette table parce que la communauté francophone dans les derniers 50 ans a connu des progrès, et c'est grâce à votre appui comme parlementaires que les choses ont évolué comme elles l'ont. On a eu des écoles, des collèges; on a des services de santé, des services juridiques et en bout de ligne, c'est la collaboration de la législature. Comme je vous dis, ce qui est important pour une communauté minoritaire, si on veut qu'elle soit là, il faut la protéger. Mais la communauté minoritaire veut travailler avec les citoyens de l'Ontario comme citoyens égaux. On veut être reconnu pour notre langue mais on veut aussi contribuer.

I will say that we, as Franco-Ontarians, certainly appreciate what the parties have done. All three parties in the past have been proactive and helpful to the community. We trust that you will give speedy recognition to this bill and speedy passage. We recognize that we've gone forward as a community; we've helped Ontario thrive because of support and because we were recognized as citizens of equal value to this province.

Alors, je vous remercie pour ça et je vous souhaite bonne délibération. Je vous dirai tout simplement que je vous souhaite que vous puissiez adopter ce projet de loi-là. C'est un signe très positif pour notre communauté et pour l'Ontario. Vous savez que le Conference Board du Canada a quand même donné une indication très claire que les provinces qui s'affichent bilingues ou qui donnent des services dans les deux langues ont nettement un avantage économique pour attirer des commerces et des citoyens. Alors, je vous invite à être expéditifs dans vos délibérations et que ça passe en Chambre dès que possible. Merci.

The Chair (Mr. Garfield Dunlop): Okay. Thank you very much. Merci.

Mr. John Fraser: Mr. Chair?

The Chair (Mr. Garfield Dunlop): Just a sec. I want to get something clear. We've got somebody itching to give us a motion here, but we had an understanding that there was possibly a chance of going to clause-by-clause today. Do we have agreement in the room to do clause-by-clause after Mr. Fraser introduces his motion?

Mr. John Fraser: We deal with this motion—yes, that's great. We want to get it done today or we're prepared, as our House leader was prepared, to sit tomorrow morning.

The Chair (Mr. Garfield Dunlop): So do I have agreement from the committee that they'd like to do

clause-by-clause after Mr. Fraser's motion? Okay. Thank you.

Mr. Fraser, you have a motion?

Mr. John Fraser: I move that the Standing Committee on the Legislative Assembly write to the House leaders of all three parties to request authorization to meet for three days during the winter adjournment for the purpose of conducting one day of public hearings and up to two days of clause-by-clause consideration of Bill 122; and

Should such authorization not be granted, or should the committee fail to complete its consideration of Bill 122 during the winter adjournment, completion of Bill 122 will be the next item of business following the committee's consideration of Bill 106.

The Chair (Mr. Garfield Dunlop): Okay. Thank you for that motion. First of all, 122 would've been the first thing back on the agenda anyhow. Yes, Ms. MacLeod?

Ms. Lisa MacLeod: I'm happy to look at it and happy to vote for that, but I really would much prefer to deal with 106 before. I'm just wondering if my colleague could either withdraw or place that on hold until we do the clause-by-clause today. We've got another two hours in committee and, depending on the volume of the amendments, I think we might be able to start dealing with this right away.

The Chair (Mr. Garfield Dunlop): Well, Ms. MacLeod, we do have a motion on the floor.

Mr. John Fraser: Just to speak to that, I think we can dispense with this fairly quickly. Bill 122 is the next order of business. We're simply asking to write so that we can meet during the winter session, and I think that's reasonable. It's an important bill. It's a reasonable request.

Again, it's just a request for the committee to write to the three House leaders. I think we can dispense with that in the next couple of minutes.

The Chair (Mr. Garfield Dunlop): If I can, Mr. Fraser, I have had a couple of phone call requests on that already, for people to ask if we can meet sooner, so I'm happy to put the question. Anything else? Anybody else have any questions on it? This is on the motion about 122 and meeting for three—

Ms. Cindy Forster: Yes. I mean, I would prefer to be dealing with Bill 106. That's why all of these people are here today. I have lots to say about Bill 122, but I don't want to tie up the people who are here. They have busy lives as well, and I think we should be dealing with their issue first and then coming back to the motion.

Ms. Lisa MacLeod: That is the decent thing to do.

The Chair (Mr. Garfield Dunlop): Mr. Fraser, would you postpone this until we're done clause-by-clause?

Mr. John Fraser: Look, I think we've got something in front of us: a simple writing of a letter to request sittings and, should that not be achieved, that we just get to Bill 122 after we're done this. If we can just vote on this now—if you're not going to support it, that's fine. If

you're going to support it, that's great. I don't think we need to debate it. It's not a complicated piece.

Ms. Lisa MacLeod: We're prepared to vote.

The Chair (Mr. Garfield Dunlop): Okay. Any other questions or comments on the motion? All those in favour of the motion? Those opposed? I guess I'll have to break the tie. I will not be supporting it at this point, but I would entertain bringing it up later. Okay? It doesn't carry.

Ms. Lisa MacLeod: If I could just make a comment, Chair, I think that there's consensus in the opposition that we have to deal with bills in the intersession, but, to Ms. Forster's point, we do have people who have travelled, particularly from my city and the city of the mover of that motion, to come here to deal with this bill. I think it would be imprudent for us to distract from that. If we could get on with clause-by-clause, I would appreciate that.

The Chair (Mr. Garfield Dunlop): Okay. Ladies and gentlemen, I'd like to have a five-minute recess so we can prepare for clause-by-clause. If you could be back here in five minutes. We're recessed.

The committee recessed from 1301 to 1310.

The Chair (Mr. Garfield Dunlop): Okay, we'll call the meeting back to order, everyone. Thank you for your patience, everyone. We'll now go right into clause-by-clause on Bill 106. What we usually do is ask each caucus if they've got any comments on it before we do the clause-by-clause, so I'll start with Ms. MacLeod.

Ms. Lisa MacLeod: Yes, if I may—and it will be in English. I do apologize to my francophone friends here, and I do have many.

I would like to first, in a rare move by me today, congratulate my colleagues in both the third party and the government. Although she's not at the committee today, France Gélinas has had the persistence in bringing this bill forward on a number of occasions, because of her belief that this was the right thing to do. Her persistence has paid off, because in this minority Parliament we have found that her voice carried a lot of weight with the current minister, Madeleine Meilleur, who in, I think, a magnanimous gesture chose to pick up the bill and introduce it.

I want to congratulate Madam Meilleur for her dedication, not only to this bill. I have known Madeleine Meilleur for many years, since I was, I'll say, a little girl—I'm not really quite that young, but when I worked at the city of Ottawa. I've always known her to be a fierce defender of Franco-Ontario, and I congratulate her for that.

I'd also like to say thank you to my own colleagues, who have made me very proud. If I think back to the Franco-Ontario flag, the drapeau, it was brought in by our party, under Bill Davis. I think of the work that has been done by Noble Villeneuve, who was a fierce defender and a very proud defender of his culture and his community, and, of course, Mike Harris, who made sure that there was sustainable funding to the francophone education system in Ontario.

This bill, I think, should be one that is dealt with fairly quickly. I think it's a bill that everyone agrees with. It doesn't come with an extra price tag; it doesn't come with an extra set of offices or big pension plans. But what it does come with is a level of transparency and accountability for services in the francophone language across the province. As somebody who is from the city of Ottawa, I see that that is important.

I would like to thank the deputants who took the time to travel here. I know many didn't come from Toronto; they came from as far away as Ottawa and, perhaps, northern Ontario, which I think is very important. Sometimes we forget to talk to stakeholders who are outside of the city of Toronto. There used to be a time around here, and I remember it, when committees actually travelled to those communities so that we could hear in-depth conversations from them and learn more about the people from areas that we didn't live in ourselves. I really thank those who make the effort to come to Queen's Park.

I've made no secret as opposition critic for francophone affairs that we in the Ontario PC Party support this legislation. I've also made no secret today that I would support unanimous consent this afternoon to have this bill pass third reading, so that this may be dealt with before the end of the session. I'd encourage all of my colleagues to consider supporting that as well.

I look forward to doing clause-by-clause, and I thank not only the deputants but you, Chair, the staff and, of course, my fellow colleagues from all parties who are at this table today. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you, Ms. MacLeod. Mr. Mantha, any comments from the third party?

M. Michael Mantha: Oui. On va essayer de l'expédier. On n'a pas grand temps de reste cet après-midi. Je voulais juste aussi, moi-même—quand on a une bonne idée, c'est beau de voir qu'ici, comme collègues, on peut travailler ensemble et puis ôter les couleurs, mettre nos drapeaux de côté. Quand c'est une bonne idée, c'est une bonne idée. Posez-les donc par en avant, puis on peut travailler ensemble pour le bénéfice de toutes les communautés, surtout la communauté francophone, à ce sujet. On peut travailler ensemble. C'est beau de voir, pour moi comme un nouveau député, qu'on peut vraiment le faire, ne pas seulement dire qu'on le fait mais l'accomplir. C'est ce qu'on veut aujourd'hui. Je suis extrêmement fier d'où je suis assis alentour de cette table, et je vous regarde tous alentours de la table, qu'on participe à cette décision où on va améliorer les avancements de la communauté francophone.

Je regarde aussi que M^{me} Meilleur—c'est fantastique qu'elle ait pris le projet de loi et l'ait avancé. Mais aussi, je ne veux pas oublier la persistance de France Gélinas, la députée de Nickel Belt, qui a vraiment apporté ce projet de loi sur pied à trois reprises. Comme je le dis, une fois que c'est une bonne idée, on la prend et puis on peut l'avancer. On garde les cartes et le jeu en dehors de la table et on avance ce qui est bon pour tous les Ontariens et Ontariennes.

Nous autres, on regarde de notre bord les discussions qu'on va avoir sur clause par clause.

Félicitations à tous ceux qui ont participé. Votre dévouement est vraiment un témoignage d'où on est rendu aujourd'hui. C'est vous qui avez vraiment facilité la décision qu'on va prendre aujourd'hui. Merci beaucoup.

The Chair (Mr. Garfield Dunlop): Thank you. Merci. From the government members: Mr. Crack.

Mr. Grant Crack: Comme je l'ai dit avant, je voudrais remercier M^{me} la ministre Madeleine Meilleur pour son dévouement à notre communauté francophone en Ontario. Moving this forward just builds upon the commitment from our government in supporting our francophone community. There's still more work to be done. Our government can certainly take pride in the creation, first of all, of the post of commissaire aux services en français en 2007.

As we continue to move forward and evolve, I think this fits right in in ensuring that we have someone who can be the voice for our francophone community. An officer of the Legislative Assembly is a very high office, one of the highest offices. Our government, certainly, can support this with unanimous consent.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Crack. I'm going to take sections 1 to 12 and put them together, and I'm going to call on that.

So we're going right into clause-by-clause now and this may set the record.

Ms. Lisa MacLeod: Yay.

The Chair (Mr. Garfield Dunlop): Maybe. I don't know. We'll see.

Shall sections 1 to 12 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 106 carry? Carried.

Shall I report the bill to the House? Carried.

That's carried. You got your Bill 106.

Before we entertain a motion by Mr. Fraser—we'll go back to that—I want to thank all the members of the committee for their co-operation here. I want to thank all of the deputants, the deputations. Mr. Hominuk, your group of people, I know, has had a tremendous amount of correspondence—over 300 letters, I believe. I thank you all so much. We will report the bill to the House today, and we'll see what we can do as far as third reading.

Mr. John Fraser: Mr. Chair, could we take five minutes and then go to the motion, so everybody gets a chance to talk—

The Chair (Mr. Garfield Dunlop): Yes. We'll just take a five-minute recess, then, and come back.

The committee recessed from 1318 to 1324.

COMMITTEE BUSINESS

The Chair (Mr. Garfield Dunlop): Thank you very much, everyone, for that recess.

Mr. John Fraser: We're good?

The Chair (Mr. Garfield Dunlop): Okay.

Mr. John Fraser: Thank you, Mr. Chair. I have a motion to put before the committee.

I move that the Standing Committee on the Legislative Assembly write to the House leaders of all three parties to request authorization to meet for three days during the winter adjournment for the purpose of conducting one day of public hearings and up to two days of clause-by-clause consideration of Bill 122; and

Should such authorization not be granted, or should the committee fail to complete its consideration of Bill 122 during the winter adjournment, completion of Bill 122 shall be the next item of business for the committee upon the House resuming in February 2014.

It's simple and straightforward.

The Chair (Mr. Garfield Dunlop): You've all heard the motion. Any questions? Ms. Forster.

Ms. Cindy Forster: I don't have any questions, but I have some comments.

The Chair (Mr. Garfield Dunlop): Okay, comments. Go ahead.

Ms. Cindy Forster: I think that this is kind of Liberal game-playing. The member sitting there should be aware that the House leaders have been talking about this issue for a week. In fact, I have a letter here to Mr. Milloy from Mr. Bisson, copied to Mr. Wilson, saying:

"It's unfortunate you are not able to agree to an agreement that would have seen Bill 122, An Act respecting collective bargaining in Ontario's school system, be referred to committee in the intersession for public hearings and reported back to the House this February for third reading. I hope that you reconsider this, as it is an important bill.

"I ask you to recall the House to sit on Monday, December 16, to debate a motion that would allow this important bill to move forward, and sit until midnight, if necessary."

That's December 10.

December 11, to Mr. Milloy and Mr. Wilson:

"I'm extremely disappointed that both the Ontario Liberal and Progressive Conservative members voted against my unanimous consent motion for the House to sit on Monday, December 16.

"Be assured that I will reintroduce this unanimous consent motion. It's important that all parties work together to get results for Ontarians."

So for the last week, the House leaders have been talking. There's no point in sending them another letter, because there is no agreement, and there isn't going to be any agreement if the parties couldn't reach one in a week. So I don't know why this motion would be before us here in Legislative Assembly today.

The Chair (Mr. Garfield Dunlop): Go ahead, Mr. Fraser.

Mr. John Fraser: I understand what you're saying. I don't see any challenge with writing a letter to the House leaders again, asking them to come to some agreement on this as described in this motion. If in fact it doesn't work, then at the end of the day we'll be dealing with Bill 122 when we come back in February. So I appreciate what the member is saying but, simply, that's not speaking directly to what this motion is.

The Chair (Mr. Garfield Dunlop): Ms. Forster.

Ms. Cindy Forster: Well, it speaks directly to what the motion is, because the House leaders are well aware that Bill 122 is sitting out there waiting to be addressed. We've attempted a number of times to get it addressed in a number of ways over the last week, and there's no point in sending another letter to House leaders, because they are aware of the situation. The only way that we can sit in the intersession is if there's an order of the House to do so.

The Chair (Mr. Garfield Dunlop): That's right. Mr. Pettapiece, you have a question?

Mr. Randy Pettapiece: I'd just like to call a 20-minute recess, if we could, to discuss this a little bit.

Interjection.

The Chair (Mr. Garfield Dunlop): Okay, so he's entitled to a 20-minute recess, providing you're ready to vote on this. Are we ready to vote on this right now?

Mr. Shafiq Qaadri: Ready to vote.

Mr. John Fraser: Ready to vote.

Mr. Phil McNeely: Ready to vote.

The Chair (Mr. Garfield Dunlop): You're ready to vote? Then you get a 20-minute recess.

The committee recessed from 1328 to 1348.

The Chair (Mr. Garfield Dunlop): I call the meeting back to order. The first item of business is the vote on Mr. Fraser's motion on Bill 122.

Ms. Lisa MacLeod: Am I able to say anything about it?

The Chair (Mr. Garfield Dunlop): No. We can't.

Ms. Lisa MacLeod: Oh, because I changed my mind.

The Chair (Mr. Garfield Dunlop): All those in favour of Mr. Fraser's motion? Those opposed? It's a tie.

I will support Mr. Fraser this time. Thank you very much. We'll see what happens with the House leaders from this point on.

Yes, Ms. Forster?

Ms. Cindy Forster: I just want to get on the record to say that we're going to reintroduce another unanimous consent on Bill 122. I hope that people quit playing games in all parties and will support unanimous consent to move Bill 122 forward, because these people are going to be going into bargaining this year. By the time we get back in February, they would like to have some of this stuff in place, so I think it's important to quit playing games. We're at the end of the session. Let's do the right thing and everyone support the unanimous consent.

Ms. Lisa MacLeod: I don't understand. What do you want? What are you looking for? To pass this without any amendments?

Ms. Cindy Forster: No. We actually introduced a motion in the House yesterday and the day before on this issue, and it got voted down, so we'll be moving—

Ms. Lisa MacLeod: Oh, so you're moving a UC in the House, not in committee?

The Chair (Mr. Garfield Dunlop): Yes, in the House.

Ms. Lisa MacLeod: Okay. I was wondering.

Ms. Cindy Forster: Yes, in the House.

Ms. Lisa MacLeod: Okay.

The Chair (Mr. Garfield Dunlop): She just hopes we'd support it here.

Ms. Lisa MacLeod: Oh.

The Chair (Mr. Garfield Dunlop): She hopes we'd support it in the House.

Ms. Lisa MacLeod: In the House. Okay.

The Chair (Mr. Garfield Dunlop): Mr. Fraser?

Mr. John Fraser: So are you speaking about unanimous consent to go through third reading?

The Chair (Mr. Garfield Dunlop): No.

Mr. John Fraser: No?

Ms. Cindy Forster: Well, it's the same bill that we—

The Chair (Mr. Garfield Dunlop): Okay. You'll have to do that in the House, whatever that is.

Mr. John Fraser: Just so I'm clear—

Ms. Cindy Forster: The bill would be called back for third reading.

Mr. John Fraser: On its own?

Ms. Cindy Forster: That's for the House leaders to determine.

Mr. John Fraser: So you can't tell me whether there's anything else attached. Okay.

The Chair (Mr. Garfield Dunlop): Is there anything else the committee would like to deal with?

Ms. Lisa MacLeod: I'd like to adjourn.

Mr. Todd Smith: I'd like to adjourn, too.

The Chair (Mr. Garfield Dunlop): Committee, I'd like to thank everybody for everything we got done this fall. We've had, I think, a really good fall. I want to wish everybody a merry Christmas and all the best in the holiday season.

Whether we're doing clause-by-clause and committee hearings over the winter, I don't know. But until we meet again, this meeting is adjourned.

The committee adjourned at 1350.

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Official Report of Debates (Hansard)

Wednesday 19 February 2014

Journal des débats (Hansard)

Mercredi 19 février 2014

Standing Committee on the Legislative Assembly

Committee business

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 19 February 2014

Mercredi 19 février 2014

The committee met at 1203 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Garfield Dunlop): We're going to call the meeting to order. Ladies and gentlemen, welcome to the Standing Committee on the Legislative Assembly. We're here today to discuss Bill 122, An Act respecting collective bargaining in Ontario's school system. It's an organizational meeting, and right now the direction of the committee, following the last meeting back on December 11, was to deal with Bill 122. I understand we have motions here.

Mr. Todd Smith: Yes, I've got a motion.

The Chair (Mr. Garfield Dunlop): We've got at least two motions coming, I think.

Mr. Smith, official opposition, you have a motion?

Mr. Todd Smith: Yes, please. Thank you, Clerk.

I move that the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 122, An Act respecting collective bargaining in Ontario's school system, 2013:

(1) Three days of public hearings and two days of clause-by-clause consideration beginning on the next regularly scheduled meeting date.

(2) Advertisement on the Ontario parliamentary channel, the committee's website and the Canadian NewsWire.

(3) Witnesses to be scheduled on a first-come, first-served basis.

(4) Each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members.

(5) The deadline for written submissions is 3 p.m. on the day following public hearings.

(6) That the research officer provide a summary of the presentations by 5 p.m. on the Monday following public hearings.

(7) The deadline for filing amendments with the Clerk of the Committee be 11 a.m. on the day before clause-by-clause consideration of the bill.

The Chair (Mr. Garfield Dunlop): Would you like to speak to your motion at all, Mr. Smith?

Mr. Todd Smith: Well, we just feel that we need to provide an opportunity for stakeholders to express their opinions on Bill 122 before the committee and take all of that into consideration and give members of the committee an opportunity to question those stakeholders.

The Chair (Mr. Garfield Dunlop): Okay. I'm going to question everyone else. Does the third party have any questions?

Mr. Peter Tabuns: Is there a government motion on this?

Mr. Bas Balkissoon: I have one. I notified the Chair.

Mr. Peter Tabuns: That's all I needed to know. Thank you.

The Chair (Mr. Garfield Dunlop): We do have a government motion coming up, but I want to ask for debate on this particular motion.

Mr. Bas Balkissoon: Mr. Chair, my motion is different and I would prefer to introduce it and debate all of it together.

Mr. Todd Smith: But you like my motion?

Mr. Bas Balkissoon: I have some difficulty.

The Chair (Mr. Garfield Dunlop): We're going to do one at a time, and I want to get your feedback on this particular motion. If you've got any concerns with it or you approve of it, I want to make sure that we can deal with this first and then we'll go to any other motions on it.

Mr. Bas Balkissoon: So you want to deal with his motion first?

The Chair (Mr. Garfield Dunlop): Yes, I want to make sure if there are any comments on this particular motion, and then we'll move to the next. Yes, Mr. Balkissoon?

Mr. Bas Balkissoon: He's finished?

The Chair (Mr. Garfield Dunlop): Yes, he made his opening statement.

Mr. Bas Balkissoon: Mr. Chair, before I debate his motion, I have an opening statement, because I'd like it to be in Hansard, my position on behalf of my colleagues.

Bill 122 is needed to create central tables for collective bargaining, with formal roles for the province, the trustee associations, school boards, teacher federations and support staff unions. The model will help us ensure constructive dialogue and maintain positive relationships.

Just to provide some context as to how we got here today, the bill was introduced on October 27, 2013. It was debated for 14 hours, for nine days. It passed second reading on December 3, 2013. The House authorized the committee to sit during the winter break to conduct public hearings and clause-by-clause consideration on the bill. However, it was left to the subcommittee, composed

of one member of each caucus, to set the agenda for the committee. Without an agreement from the subcommittee, the public hearings and clause-by-clause could not have taken place.

Had the committee met during the winter break, we could have been debating third reading of this important piece of legislation in the House today and this week. I'm very disappointed with that. It's unfortunate that the official opposition boycotted the subcommittee meetings during the winter break to agree on the agenda for the committee.

I look forward to their cooperation in the coming days, but Mr. Chair, Mr. Tabuns and myself made ourselves available. If not, we had a substitute for every opportunity to schedule this bill.

I think the motion, if you read it on its surface, sounds good. But to me, there are too many days outlined here, which is a filibuster in process and a delay in process. Most of the parties that will come to make deputation on this particular bill have been engaged somewhere or another along the way by the ministry and the minister herself.

I have a motion that sort of speeds this up because we need to get it done. It is something that is very important to all the parties, and I can't support the motion put forward by the member in the official opposition because three days of public hearings, in my opinion, is way too much. Two days of clause-by-clause is way too much, because this is a technical bill. I can't see it being amended significantly. It will be amendments that most of us will agree on because it involves third parties. It doesn't involve us around here, other than the minister and the ministry. So I have a lot of difficulty with what has been put forward, and I have my own motion that I'll be moving next.

The Chair (Mr. Garfield Dunlop): Okay. I'm looking for a debate on this. Does the third party have any questions or comments?

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Garfield Dunlop): Okay. Any further comments here? I'm going to call for a vote on this motion here. Okay?

Mr. Todd Smith: I would just like to say, Chair, that I find it a bit odd that a member of the government would talk about the speed of anything, considering that most things that they've done have moved at the speed of an iceberg. However, I am willing to make a change and reword my motion, that we would be willing to meet for up to three days of public hearings and up to two days of clause-by-clause if the committee members would be inclined to agree with that motion.

1210

Mr. Bas Balkissoon: You would need to explain what "up to" means, because the committee has a schedule. Once we say "up to three," we can't change it, because the public needs to know. So I'm sorry, that wording is not going to fly with us.

The Chair (Mr. Garfield Dunlop): Excuse me, you're making an amendment to your motion?

Mr. Todd Smith: We as a committee, though, agree on the schedule, so obviously we would need to discuss that schedule, and we could meet in subcommittee to decide that.

The Chair (Mr. Garfield Dunlop): Okay, so—

Mr. Todd Smith: Yes. To answer your question, Chair: Yes, I'm amending my motion.

The Chair (Mr. Garfield Dunlop): Okay. So I'm going to allow the amendment to take place, but I want comments on that. I think we've heard from—

Mr. Bas Balkissoon: Mr. Chair, if it will help my colleague on the other side, my proposal is one day of public hearings, because we know what parties most likely will show up, and two days of clause-by-clause if we are going to argue about the amendments. I think that's a fair opportunity to deal with this bill that absolutely needs to go forward as quickly as possible. The only reason the House approved us to meet during the break was because there was a need to deal with this.

The Chair (Mr. Garfield Dunlop): I understand. So right now we have the motion reading "up to" that I'm going to call a vote on, okay?

Mr. Bas Balkissoon: Okay.

Mr. Todd Smith: I don't know how the member on the other side knows how many stakeholders would be interested in appearing at the public hearings. If we open the door to up to three days, and there aren't enough deputations willing to come in during that time, we'll fill it up as it goes. But if the interest is out there from stakeholders who want to come appear before the committee, then I believe we have to give them the opportunity to come and speak to us and share their feelings on Bill 122.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Walker.

Mr. Bill Walker: I'd also like to reinforce what my colleague Mr. Smith is saying, because one day limits people who may not, on that one given day, be able to make it. If we're supposed to be transparent, open and accountable to the public, and they can't come on just one day, then at least two gives them a flexibility that they can maybe make that day. I do believe if there are not enough deputations, then that certainly makes a very balanced approach in my opinion, so I would support that wholeheartedly.

The Chair (Mr. Garfield Dunlop): Okay. Just so the committee knows, we do have 12 requests right now to speak to this bill at committee hearings, so I think that's safe to say.

Any other questions on this up to motion—"up to"? Okay. All in favour of Mr. Smith's motion? That's defeated.

We'll now go to Mr. Balkissoon. If you could read your motion?

Mr. Bas Balkissoon: Yes. I move that the Clerk, in consultation with Chair, be authorized to arrange the following with regard to Bill 122, School Boards Collective Bargaining Act, 2013:

(1) One day of public hearings and two days of clause-by-clause consideration, commencing on the first day that the committee next meets;

(2) Advertisement on the Ontario parliamentary channel, the committee's website and the Canadian NewsWire;

(3) Witnesses be scheduled on a first-come, first-served basis;

(4) Each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members;

(5) The deadline for written submissions is 3 p.m. on the day of public hearings;

(6) That the research office provide a summary of the presentations by 5 p.m. on Friday of the same week following public hearings;

(7) The deadline for filing amendments with the Clerk of the Committee be 12 noon two days preceding day one of clause-by-clause consideration of the bill.

Mr. Chair, this is almost similar to what we had submitted, as a subcommittee that met without quorum, and had sent to the opposition party to endorse, and we received no support.

The Chair (Mr. Garfield Dunlop): Okay. Further comments on Mr. Balkissoon's motion? He has made a statement. Mr. Smith and then Mr. Walker.

Mr. Todd Smith: Thank you. I would like to amend that we have two days of public hearings. As we've already heard from the Clerk, we have 12 interested parties who would like to appear before the committee, and if we're trying to jam in 12 without advertising the fact that we're having these meetings, who knows how many more may be interested in appearing before the committee? So if we could amend that to say "two days of public hearings and two days of clause-by-clause consideration" commencing on the first day that the committee next meets, I believe that would be sensible, considering the interest that exists already in appearing before the committee to discuss Bill 122.

The Chair (Mr. Garfield Dunlop): Mr. Walker, you've got a comment?

Mr. Bill Walker: Yes. I'd like to also be on the record that I think the government should take a secondary look at this. We have 12 deputations, as we've already heard, without advertising. My concern would be that they're trying to stifle the ability for our taxpayers and the constituents of this great province to have their say. I don't see that another day of ability for people to come in and voice their thoughts, their concerns, their opportunities—that's what we're here for. We're here to work for the people, always listen to the people, so I am concerned that if they're going to be basically steam-rolling this ahead, there must be some ulterior motive, and I would question what that would be from my respected colleague and hope that he will address that a second day is not unreasonable and in fact should be the approach we take, so that the public have their say on such a piece of legislation.

The Chair (Mr. Garfield Dunlop): Further comments, anyone?

We've got an amendment now to your motion from Mr. Smith.

Mr. Bas Balkissoon: Is Mr. Tabuns up for any comments? I've just got one comment.

The Chair (Mr. Garfield Dunlop): Go ahead, Mr. Balkissoon.

Mr. Bas Balkissoon: Mr. Chair, I would be respectful to my colleague had we not tried more than once and, I should say, more than twice, to get an opposition member to be on the phone or to come in person to deal with a subcommittee meeting. The delay was not done by my colleagues in the NDP and it was not done by ourselves. We've had—I don't know—six, seven, eight weeks, and from what I'm hearing on the other side, I really don't know how to take it, but my motion stands.

The Chair (Mr. Garfield Dunlop): Mr. Smith?

Mr. Todd Smith: I would like to make a comment on that. I find it appalling, actually, that since we already have a full day of stakeholders, the government members wouldn't allow interested parties who would like to come to speak to this committee. Are you basically telling interested parties who would like to appear before this committee that they're not welcome here, that we don't want to hear what they have to say? Because we already have a full day, with 12 interested parties. Is that what you're saying? Are you turning down people who would like to come and provide some input on a bill that is about to pass through committee? It's appalling to me that this kind of behaviour is existing and you would rather argue over phone calls or attendance, which is out of order anyway, in my opinion.

We're here now. We're dealing with this now. We have 12 interested parties without anybody advertising the fact that this is going to take place. Anyone else who might be interested, if we do the advertisement on the Ontario parliamentary channel and the website and Canada NewsWire—you're basically telling them, "We don't want to hear what you have to say."

I think it's only fair that we advertise an extra day—we're not asking for the world here; it's one more day—where we would meet and hear from interested parties who want to talk about this bill.

The Chair (Mr. Garfield Dunlop): Mr. Walker, and then I'll go to Mr. Crack.

Mr. Bill Walker: Again, I just want to echo and reinforce. You've brought up the fact that people weren't able to attend via telephone or however due to complicated, busy schedules, so here is yet another time that if you only have one day and already have 12 groups, how do those other groups get in? You purport to be the education party. This is something that is definitely going to impact education across the province—107 ridings. Maybe every one of those will want some say in this matter. I think it's reprehensible that you would actually try to rush this through for your own benefit, whatever that may be, as opposed to allowing the great people of Ontario who are interested in this legislation to have their say.

I would parallel it to the Green Energy Act, where you steamrolled that and took away the democratic right of people to have their say about where they want wind turbines. This is yet another situation where that may be

the same type of thing, so I think it's only out of respect for the people of Ontario—who pay the freight for all of us to be here—that we have that second day offered. I don't think it's unreasonable. I think my colleague is very right in trying to stand up for the people of Ontario. We've got 12 deputations, and there may be 25 deputations. Now you're going to expect that to happen in one day. People feel rushed. Can they get there on that one day if their schedules are already blocked? You haven't advertised it to allow them.

1220

I think it's very balanced. I'm hopeful that my NDP colleague will step up and defend the right of Ontarians to have a legitimate say in this piece of legislation and support us in that request for a second day to be added to the schedule.

The Chair (Mr. Garfield Dunlop): Further comments? Mr. Crack?

Mr. Grant Crack: I just think that this is yet another situation where we, as a government, want to move a very important piece of legislation through the House, through committee. It looks like it's being delayed again.

The committee was authorized to meet over the winter months. There's no secret about that. I think the 12 who have indicated that they are willing to come before committee are the serious stakeholders who have been following this. I'm not going to say that there's not an opportunity for others to come forward and speak to the committee, but there are also the written submissions that play a very important role in committee deliberations as we move forward, so I'd like to put that on the record—that there's plenty of time, but this is an important piece of legislation that needs to go through the House.

Mr. Bas Balkissoon: Chair?

The Chair (Mr. Garfield Dunlop): Yes, Mr. Balkissoon.

Mr. Bas Balkissoon: With all due respect to my colleague Mr. Walker—Mr. Tabuns, yourself and myself, we met. We did not have representation from the other side. We compiled a method of doing this bill's business that the committee could work on. It was unofficial; I know that. We submitted it to the other party and said, "This is what we're proposing."

If they didn't agree with the one-day hearing requested back then and they wanted two, the simplest thing they could have done was send it back and say, "Look, let's have two days of hearings, but we're not available until the House resumes." At least today would have been a hearing. But to me, what was done before was a delay that could have been avoided, if I could put it in simple terms.

The public out there that is really involved in this collective bargaining is most of the groups that I mentioned in my opening remarks. It's not the general public who has a kid going to a school. I don't see them getting involved in the collective bargaining strategy and details and whatever—there might be one or two. But everybody out there knows that this bill has been presented to the House and it was sent to committee for public hearings.

We have 12 deputants. The time specified in my motion accommodates those 12 deputants. As my colleague just stated, there is the written opportunity. If the member has two or three known deputants who he wants, and he wants to identify them, I may be able to think about it. But right now, I want to move the business of this committee along, and hopefully, we'll get it done in time.

The Chair (Mr. Garfield Dunlop): Mr. Walker, you had a question or a comment.

Mr. Bill Walker: Yes. With all due respect, Mr. Balkissoon, I will stand up for those parents who may actually feel they do have a right and the obligation and the interest to have comment. Should they wish to, we need to be appropriately accommodating that.

It seems to me that you're caught up in process. Maybe things didn't happen the way you wished, maybe there could have been a different way, but the reality is we are here today. You seem to be more concerned about the process that was followed; we seem to be more compelled about the ability for people in a democratic society to have their say, and an appropriate say, and an opportunity to have input into a very critical piece of legislation.

I find it a little bit interesting that you would bring up something of timeliness. Just as we walked out of the House, the last question of the day was about the Ring of Fire. Your government has had 10 years to put something in place with that very, very critical project that will have a huge impact on Ontarians and the workforce—

The Chair (Mr. Garfield Dunlop): Stay to Bill 122.

Mr. Bill Walker:—so to say that we have to expedite this because you didn't get the timeline that you want I think is a little bit rich.

I think, Mr. Balkissoon—and again, I'm going to continue to stand up for the people who may wish to. How you would know that there may not be any other groups when you haven't even advertised—the other question is, why would you want to advertise now if you're not prepared to allow other groups to come along? So again, a little bit of waste and duplication of effort, time and energy. If you really are saying there's no opportunity for more people to come in, why would you advertise the fact that you're going to have one solitary day that's packed with 12 deputations already?

I'm getting a bit of a mixed message. I'm worried that it's process driving the process, if you will. We will stand on our principle of the people of Ontario have the right to have their say. We want that and we will again ask the NDP to support us in that measure, that the people—I don't believe asking for an additional day is unreasonable. Maybe the timeline didn't meet your expectation, and we apologize, perhaps, for that. We have had a few snowstorms over the winter break that maybe had some challenge there, and what happens if this one happens the same way? Having two alternative dates, I think, is not unreasonable.

Mr. Todd Smith: I would also take exception to the comment that was made, with all due respect to Mr. Balkissoon, that parents aren't concerned about this. Parents are concerned about what has happened in our

schools. We saw what happened in September a year ago. I think there's nobody in Ontario that's more concerned about what's happening in our schools than our parents. I can tell you that I'm a parent who has a child in school. We want our children to be in school. This is very important to them.

Also, reinforcing what my colleague from Bruce-Grey-Owen Sound, Mr. Walker, has said, why would we advertise if we don't have room to allow delegates to come and speak to us about this bill? I would question that as well.

I would ask, Mr. Chair, that we have a vote on our amendment to have two days of public hearings and two days of clause-by-clause.

The Chair (Mr. Garfield Dunlop): We're going to do the amendment right now—

Mr. Todd Smith: Thank you, sir.

The Chair (Mr. Garfield Dunlop): —if there isn't any more comment, and then we'll—

Mr. Bas Balkissoon: Call the question, Chair.

The Chair (Mr. Garfield Dunlop): That's what I'm saying. So there are no more comments on this?

Mr. Bas Balkissoon: No.

The Chair (Mr. Garfield Dunlop): Okay. On Mr. Smith's amendment to Mr. Balkissoon's bill for up to two days of hearings—

Mr. Bas Balkissoon: Motion.

The Chair (Mr. Garfield Dunlop): I'm sorry, on your motion. I apologize.

All in favour of Mr. Smith's amendment? Opposed? The bill is defeated.

Mr. Grant Crack: The motion.

Interjections.

The Chair (Mr. Garfield Dunlop): The amendment to the motion is lost.

Any more debate on the actual motion?

Seeing none, all in favour of Mr. Balkissoon's motion? Those opposed? The motion is passed.

Mr. Bas Balkissoon: Thank you, Chair.

The Chair (Mr. Garfield Dunlop): There's no further business for this committee today. Everyone enjoy the day. The meeting is adjourned.

The committee adjourned at 1227.

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Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

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Journal des débats (Hansard)

Mercredi 26 février 2014

Standing Committee on the Legislative Assembly

School Boards Collective
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Comité permanent de l'Assemblée législative

Loi de 2014 sur la négociation
collective dans les conseils
scolaires

MAR 11 2014

Chair: Garfield Dunlop
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 26 February 2014

Mercredi 26 février 2014

*The committee met at 1200 in committee room 1.*SCHOOL BOARDS COLLECTIVE
BARGAINING ACT, 2014
LOI DE 2014 SUR LA NÉGOCIATION
COLLECTIVE DANS LES CONSEILS
SCOLAIRES

Consideration of the following bill:

Bill 122, An Act respecting collective bargaining in Ontario's school system / Projet de loi 122, Loi concernant la négociation collective dans le système scolaire de l'Ontario.

The Chair (Mr. Garfield Dunlop): Good afternoon, ladies and gentlemen. Welcome to the Standing Committee on the Legislative Assembly. We're going to deal with Bill 122 today, An Act respecting collective bargaining in Ontario's school system.

We've got a full schedule this afternoon. I know we do have one quick motion coming in that will be tabled, and then if we have time at the very end, we'll discuss it, possibly, today.

Mr. Balkissoon, you had something.

Mr. Bas Balkissoon: Thank you, Mr. Chair. I just want to move this motion so that I get it on the record and, if we do have time at the end of today's meeting, to actually deal with the motion itself; if not, it will be the first item at the next meeting. Then, I'll have some opening remarks on this particular bill that's in front of us.

I move that the committee seek the authorization of the House leaders to meet on Tuesday, March 11, and Wednesday, March 12, 2014, between 9 a.m. and noon, and 1 to 5 p.m., for the purpose of clause-by-clause consideration of Bill 122.

I'll table that, Mr. Chair.

Just some opening remarks on Bill 122—

The Chair (Mr. Garfield Dunlop): I'm sorry. We don't have time today for opening remarks—at the beginning of the next session.

Mr. Bas Balkissoon: Sure. That's it.

The Chair (Mr. Garfield Dunlop): Okay, so we've got the motion tabled.

ONTARIO PUBLIC SCHOOL BOARDS'
ASSOCIATION

The Chair (Mr. Garfield Dunlop): I'm now going to go straight to the witnesses this afternoon. The first one is

the Ontario Public School Boards' Association: Michael Barrett, Wayne McNally and Penny Mustin. If you would come forward, please. You have a total of five minutes for your presentation, and three minutes for each caucus to ask you questions or make comments. Please feel free to start right now.

Mr. Michael Barrett: Thank you very much. My name is Michael Barrett. I'm president of the Ontario Public School Boards' Association. I'm joined by Penny Mustin, director of labour relations, and Wayne McNally, director of finance. We thank you for this opportunity to address the Standing Committee on the Legislative Assembly.

School boards are united in a common purpose: We want to maximize the opportunities for success for each and every student. We believe teachers and support staff deeply influence a positive and productive learning environment for students. They are supported in their roles through the peace and stability engendered by successfully negotiated collective agreements.

A fundamental role of school boards is to be responsive at the local level to the expectations of parents of school-aged children and youth. Parents in Ontario expect school boards to protect the quality of education in the classroom. They also expect school boards to protect the future of the education system by making decisions that are focused squarely on what is in the best interests of all students in the learning environment.

Today we want to talk to specific provisions in Bill 122. There are some provisions that we clearly support and others that we believe require deeper consideration. What we have to say reflects input from all of our member school boards across the province.

This legislation is the result of months of consultation with the education sector and its stakeholders. OPSBA has been a key contributor to these consultations and advocated strenuously for an effective leading role for school boards in future negotiations.

A priority of our association has been to secure a legislated, fair structure and process for effective provincial bargaining. Our goal in this regard is to bring stability to the entire education sector. The introduction of this bill is the first step in seeing this become a reality, and we are encouraged that this legislation identifies OPSBA as a designated bargaining agent.

We would like to touch on a number of aspects of the bill that we believe need to be clarified and strengthened

in the interests of a fair structure for all parties to the process.

The first point is about section 15, the requirement for crown consent. One of OPSBA's key objectives is to build a fair process for a meaningful local bargaining process. The fact that each of Ontario's public school boards has structures, programs, services and local initiatives that respond to community needs and demographics means that they are simply too different from one another to eliminate the ability to address local issues in fair and significant ways.

Bill 122 appears to accept this position and support the continued existence of meaningful local bargaining. Indeed, we would go so far as to say that the evident intention of the bill is, once the scope of central bargaining has been determined, to influence local bargaining as little as possible, to allow local bargaining and any associated processes to move forward independently of central bargaining.

In terms of imposing local sanctions, teacher federations and unions are subject to no new restrictions on their options apart from being required to give five days warning of their intentions. Nothing in Bill 122 regulates a range of strike options from which a federation or union local may choose.

It can be argued, however, that this is not true for local school boards. Absent Bill 122, a local board today under strike/lockout circumstances would have the option of altering terms and conditions of employment, including wages. This could include the reduction of wages in cases where services had been reduced beyond the extent of a simple work-to-rule.

Clause 15(2)(3) suggests that under Bill 122, local boards cannot alter wages or other employment terms, even in response to local strike action, because this would affect a "central term." If, as appears to be the case, federation and union locals retain under Bill 122 the full spectrum of responses to a strike/lockout situation in respect of local issues, local school boards must also retain the ability to alter terms and conditions in response to local strike action pending the ultimate resolution of wage rate proposals through the bargaining process. Failure to do so will result in a statutorily created imbalance in bargaining power with resulting distortions in collective agreements that may well have significant detrimental effects on student achievement and student safety.

OPSBA, therefore, recommends the following be added as subsection 15(2a):

"Nothing in this act restricts the right of a school board or school authority to reduce compensation in the circumstances described in clause 86(1)(a) of that act, where it is otherwise permitted to do so by law."

The second point is that shared responsibility of school boards and the crown—

The Chair (Mr. Garfield Dunlop): You've got 30 seconds.

Mr. Michael Barrett: I've been waiting three months for this.

When Bill 122 was introduced in the Legislature, Minister Liz Sandals talked about the ability to ensure that the trustee associations and the province would work together, putting together a mandate. This represents a fundamental weakness.

OPSBA recognizes the significance of the minister's statement, but we believe that, in two respects, the language must be modified to put in place a system which will allow the crown and school board association to fulfill their shared responsibilities for the interests of students.

In section 16, there should be an amendment that an employer bargaining agency and the crown shall co-operate in good faith in preparing for and conducting central bargaining.

In section 32, our recommendation is that the crown and the involved employer bargaining agency at a central table shall meet with the involved employee bargaining agency within 15 days after the scope of the central bargaining has been determined or within such further period as they agree upon. The crown and the involved employer bargaining agency shall bargain with the involved employee bargaining agency in good faith and make every reasonable effort to agree upon central terms.

Certainly our last recommendation under section 22, without the preamble, is that the minister shall not exercise the powers in subsections (1) and (2)—this is with regard to being able to take the powers of bargaining away from the local associations, such as OPSBA—(a) without reasonable grounds and (b) without first consulting with specified boards that are represented by the school boards' association. This is a critical component.

The Chair (Mr. Garfield Dunlop): Thank you very much.

Mr. Michael Barrett: We thank you for your time.

The Chair (Mr. Garfield Dunlop): We'll now go to the official opposition. You have up to three minutes for comments.

Mr. Rob Leone: Thank you very much for your presentation. I'm curious to ask, why do you think that the unions have had the full spectrum in terms of what they could do in a job action but not the school boards? Why do you think that is?

Mr. Michael Barrett: Well, I think that certainly through the process of negotiation over the history of bargaining, that has been an element that's been included. I would say, however, that that ability to do that which we're specifically talking about with regard to altering the wages—the school boards today have that right to do that. Our concern is about that being taken away in the upcoming and pending Bill 122.

Mr. Rob Leone: In terms of things like extra-curricular activities, I know that's sometimes something that's offered—withholding those extracurricular activities—as being something that a teaching federation might do during the course of a job action. What impact does that have on your members and school boards in general?

Mr. Michael Barrett: Well, certainly, as we all witnessed over the last bargaining process—and I'll use the word "process" very loosely because there was a lack thereof—the withdrawal of extracurricular activities significantly impacts the ability of our students to round out their educational experience. We understand the rights of the union in order to withdraw that, but as we did witness in the last round, there were some elements that were over and above the ability to withdraw extracurriculars that took away mandatory pieces. Certainly, the impact of the withdrawal of extracurriculars is critical.

The Chair (Mr. Garfield Dunlop): You've got another minute left.

Mr. Rob Leone: Oh, good. You mentioned that you had been going through negotiations for months. Now you've come to this table with several amendments that you've proposed. Why do you think the government got parts of this legislation wrong, in your view?

Mr. Michael Barrett: Well, I won't say wrong or right. I'll just say that there's probably a differing viewpoint that we would like to see. Certainly we have, I think, advocated at the meetings that occurred. There's nothing new here that's included in our three points. This has been a consistent message for us in being able to go forward. We would like to be able to ensure that there is indeed an equal playing field for OPSBA, and we think that these four recommendations are those elements that are going to make sure that we have that.

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The Chair (Mr. Garfield Dunlop): Thank you very much to the official opposition.

We'll now go to the third party for up to three minutes.

Mr. Peter Tabuns: Thank you, Chair, and thank you, Mr. Barrett.

The duty to co-operate between the crown and the school boards: What would the consequences be of not, in fact, amending the act to require the crown to treat you with good faith just as you treat them with good faith?

Mr. Michael Barrett: There is an element included in Bill 122 that ensures that there will not be a process by which there will be an agreement without the collective agreement of all three parties, so understanding that that's a critical component, we certainly support that.

The element that you're speaking of is with regard to ensuring that what we do is not have a process up front, that the voice of the school boards of all shapes and sizes would have the ability to be able to influence indeed what our bargaining position is going to be. Failure to have that, I think, would limit the discussion at the table for a more fulsome discussion.

Mr. Peter Tabuns: Okay. The question of "Substitution if employer bargaining agency unable"—have you explored this with the ministry? Because, as you and I have talked before, this is a very profound power that's being given to the ministry in this act.

Mr. Michael Barrett: Our staff members and ourselves have certainly talked to that point, that although I

don't believe it is the intention—as we said in the preamble but didn't get to read—that it would indeed be the element of the current minister to be able to, as with her experience and history with OPSBA, we would not see that as something that would have been dire circumstances. We believe there needs to be a strengthening of the language, because the landscape can change pretty directly, and we would suggest that is something that could be misused in the future.

The unions do not have the same restriction put on them, and we don't think we as a bargaining agent should have that as well.

Mr. Peter Tabuns: I imagine you've discussed this with the government. Under what circumstances were they thinking that this power might be exercised?

Mr. Michael Barrett: Certainly we've had that discussion as well, and the language talks about the inability to act upon the duties that are prescribed within the agreement. However, that is a little loose for us, and we would like to be able to see it—number one, we don't necessarily believe that it needs to necessarily be included, but the language has to be strengthened in order to make sure that—under what circumstances are prescribed.

Mr. Peter Tabuns: And you've recommended language in fact—

Mr. Michael Barrett: Correct, we have.

Mr. Peter Tabuns: —that would be satisfactory to you if the bill were amended in that way.

Mr. Michael Barrett: Yes, and satisfactory to our members.

The Chair (Mr. Garfield Dunlop): Thank you very much to the third party.

We'll now go to the government member: Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you, Mr. Chair, and thank you very much for being here and presenting to us. In your comments you mentioned clearly that there had been many, many months of consultation between the ministry and yourselves and that—I hope I'm quoting you right—you're encouraged by what's in the bill. Generally speaking, do you see that this bill will improve the bargaining process?

Mr. Michael Barrett: Yes, we do, and certainly our members do as well. I think what we have seen demonstrated over the last number of agreements and bargaining is that we have not had a defined process. I'm a governance guy from way back, from the co-operative sector, and I think it's critically important that we have a process. We are indeed encouraged by Bill 122. We have made recommendations, but we are encouraged by Bill 122. We are encouraged by the responsibility and accountability it gives to us, and we believe that it will go a long way in being able to ensure that what we do is have an equitable playing field for negotiations in the province of Ontario.

Mr. Bas Balkissoon: So you would really urge the committee to do whatever it can to get this bill through the Legislature as soon as possible, since bargaining sup-

posedly will have to start somewhere before August, or right after August?

Mr. Michael Barrett: We would certainly encourage the passage of this bill, obviously with the amendments that we put forward.

Mr. Bas Balkissoon: Notwithstanding that. Okay, thank you very much.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Balkissoon, and thank you for your presentation today.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION

The Chair (Mr. Garfield Dunlop): We'll now go to the next presenter, the Ontario Secondary School Teachers' Federation.

I just want to point out to everyone that we are eating here today too. We don't always eat at all our committee meetings, but we just came from question period and folks haven't had a chance for a break here. So they're kind of eating on the run for an hour, but that's not the case everywhere.

Mr. Bas Balkissoon: We're having a working lunch. It's a working lunch.

The Chair (Mr. Garfield Dunlop): It's a working lunch, yes.

To the Ontario Secondary School Teachers' Federation, please proceed. I just want to pass on that a good buddy of mine, Ian Tudor, is a representative up in Simcoe county and he used to be the cable show host for Rogers and we had some good times on that.

Please feel free to start. You have five minutes.

Mr. Paul Elliott: Thank you. I'm Paul Elliott, president of the Ontario Secondary School Teachers' Federation. To my left is Brad Bennett, our director of protective services.

To the committee: I'd like to thank you for the opportunity and inviting us to make the presentation today on Bill 122. As you are aware, this bill is very important to our sector because it delineates the bargaining process not only for our members, but for the school board associations and also for the government. We have a keen interest in ensuring that the process meets the needs of our members: 60,000 teachers, occasional teachers, educational assistants, secretaries, custodians, psychologists, speech and language pathologists and other support staff and professionals. We do have concerns about the bill and welcome the opportunity to share those concerns today in the hope that changes will be made to improve the process and clarify roles and responsibilities.

We would first like to draw your attention to sections 3(4), 13(2), 28(1) and 32(1) and probably other consequential provisions that stipulate that the crown will not be a party in the proposed negotiations framework. We believe that the crown should be a party and a full participant to the negotiations. This would mean that, amongst other things, the legislation should clearly specify that:

—the crown would be bound by the duty to bargain in good faith, which is arguably now the case but not made explicit;

—the crown is also bound by the other unfair labour practice provisions under the act, namely sections 70, 72, 73, 76 of the Ontario Labour Relations Act, in order to provide for a potential remedy in response to government interference;

—the crown would be responsible for tabling and responding to positions and ultimately agreeing to any tentative collective agreement;

—the crown would not have the ability, as is now the case, to simply veto any agreement reached and ratified by the employer bargaining agency and affiliate members.

Next, we believe that section 23(2) should be amended. The article should require a central table for support staff once they have met a certain threshold of bargaining units and the "may" should be changed to "will" in the article. This change would, for OSSTF and other unions who meet the required threshold, obligate the parties to have a central table for support staff. While the government has provided certain guarantees that there would be a central table for OSSTF support staff, it is not a requirement under the bill. For the sake of clarity, the article should be amended and "may" should be changed to "will" in the article.

In section 37 dealing with arbitration, the factors being introduced are those applicable to the health care sector and firefighters, but it introduces the notions of private sector comparison and ability to pay. We believe that the criteria should be removed, and if they are not removed, the article should be amended to add a factor such as already exists in the federal Public Service Labour Relations Act. If the current five factors are not removed, then a sixth criteria should be added that states: "The need to establish compensation and other terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the service rendered."

Section 42(1) of the bill should be amended. The article deals with the central grievance process for central table issues. The issue is that the central grievance process as written would duplicate arbitration and increase expenses for everyone. Under the present wording, issues can and, in fact, must be re-litigated. An effective central grievance provision is necessary. The central process cannot give rise only to a "declaration," which is the word used in the article; rather, it also needs to give rise to the ability to issue a "direction" so that local boards have to implement the decision, with which they would be directed to comply. In short, we are proposing that the bill be amended to allow arbitrators to issue a direction as opposed to a simple declaration.

In sections 24(2), 40(2), 41(1), as outlined in our first comment, the crown, even though it is not a party to negotiations, has given itself a number of extraordinary powers; namely, the crown can, in 40(2), dictate the term

of the agreement to be two, three or four years. In section 24(2) the minister can decide, based on her opinion, what matters will be discussed at the central table and in 41(1) must consent to a revision, even if the union and the employer bargaining agency have agreed. Again, if it was a party, some of these issues would be resolved, but the crown should not have the ability to dictate the term of the agreement by regulation. It should be bargained.

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Subsection 5(3) specifically excludes occasional teachers from the Provincial Schools Authority from the negotiations process. We understand that these employees are presently not unionized or even recognized in the current Provincial Schools Authority act. We believe that it would not only be practical, but also in keeping with the rest of the education sector if these employees were, through an amendment of the bill, integrated into OSSTF/FEESO, the union that currently represents permanent teachers.

These occasional teachers are an anomaly in the province of Ontario because all other teachers, permanent or occasional, were mandated through legislation 16 years ago to belong to their respective teacher affiliates. The government now has an opportunity to rectify that anomaly. In the least, the government should remove the obstacle to bargain for this group centrally, should they become unionized.

The Chair (Mr. Garfield Dunlop): Thank you very much. We will now go to the third party for questions. You have three minutes.

Mr. Peter Tabuns: Thanks, Mr. Elliott. I appreciate the presentation. The question of how the central items are going to be determined: Can you enlarge on that a bit? Because as I understand it, in the bill right now, ultimately, the crown can dictate what is or is not bargained centrally.

Mr. Paul Elliott: The way it is right now, the employer bargaining agencies and ourselves are bound—basically, there are two criteria in there: Items that are to be at a central table must have a significant impact province-wide on government policy and a significant impact on funding across the province also. Those are two things that we are bound to, and also the employer agency.

According to the bill as it currently stands, the government is not bound by those two criteria. The minister has sole discretion in deciding what may be at the table. We think the minister should basically have to follow the same criteria we have to follow.

Through the process right now, even before you begin bargaining any issues that are there, there still has to be an agreement of what will be bargained, which is the first step, which is something you could say is new at that level; but I think that all three parties to this process need to be bound by the same criteria in order to move that forward.

Mr. Peter Tabuns: I'm assuming it's standard for the scope of the bargaining to be the first item to be negotiated in any process.

Mr. Paul Elliott: Typically, yes.

Mr. Peter Tabuns: Typically. So this is outside of that normal process. Okay.

The question of the addition of consideration for the responsibilities that are involved when one is talking to an arbitrator: You're asking, if we don't take away the ability-to-pay language, that we modify this so that it's more balanced in terms of directing an arbitrator to carry through on a finding. Can you enlarge a bit on that?

Mr. Paul Elliott: Yes. I think it's important that we start to recognize this is something that has worked at the federal level. It's something that could easily work specifically when we get into central table issues. We really have broadened the scope to deal with a government. The ability to pay is something that we always have an issue with, specifically when you're dealing with the government, because the government, depending on what can happen and depending upon the party of the day, can really determine what that is outside of that arbitration process.

We believe that in the arbitration process, there needs to be recognition, as we go through those terms and what they are, of the terms and conditions of employment, relation of the qualifications that are required, the work performed, the responsibility assumed—all of that we think really is important for an arbitrator to make a decision on a go-forward basis.

The Chair (Mr. Garfield Dunlop): Thank you very much to the third party.

We'll now go to the government members. You have three minutes.

Mrs. Amrit Mangat: Thank you, Paul, for your presentation. You spoke about central table requirements for support staff only. Can you throw some light on what would be the merits and demerits of that?

Mr. Paul Elliott: One of the things we deal with right now is the funding issue. It really comes down to funding when you are talking about a central table bargaining. We have a group of employees out there that is not recognized anywhere in this in terms of having a central table. Our experience, going back to the days when school boards lost the ability to raise their own funds—this has been an outstanding issue in terms of being able to negotiate fair terms to a collective agreement when you don't have the opportunity to talk to that group that actually provides the compensation and funds school boards. So we have a significant group that really has been excluded through this bill. We feel it's their right also to have the opportunity to be at a central table and, at a central table, discuss working conditions with the actual funder of the school boards, which is significant.

Mrs. Amrit Mangat: May we know: Who are those groups? Can you name them?

Mr. Paul Elliott: I can say, anybody who works in the education sector who's not a teacher.

Mrs. Amrit Mangat: Not a teacher. Okay.

Mr. Paul Elliott: So anybody who's not a teacher does not have the right to be at a central table, and I think

that's unfair not only to those individuals, but I think it's unfair to the whole process.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Garfield Dunlop): Further questions? Mr. Balkissoon.

Mr. Bas Balkissoon: I know you mentioned a couple of issues, but which would be the prime one?

Mr. Paul Elliott: I would say numbers 1 through 5—

Mr. Bas Balkissoon: So 1 through 5.

Mr. Paul Elliott: —or 1 through 6 would be the prime issue, but yes.

Mr. Bas Balkissoon: All right. Notwithstanding that, do you see this bill as improving the process compared to last year?

Mr. Paul Elliott: I would say it's improving a process—and I'll go all the way back to 2004. Since 2004, we have been dealing with a bargaining process that has been difficult. If you go back to 2002, when we really did not have that much government interference, we were at a bargaining table with a group that had absolutely no control over their funding, which makes it very problematic in terms of going forward.

What we have seen since 2004 and 2008 and this year is a growing influence of the government on the negotiation process, with absolutely no parameters and no ability to define how an agreement is done or how it's going to move forward.

In 2008, we had something called a provincial discussion agreement. In 2012, we have something called a memorandum of understanding. These are the issues. Having something in place moves this in a direction that defines the parameters and the roles and responsibilities, which is good at any bargaining table.

Mr. Bas Balkissoon: I'm glad to hear that. Thank you very much.

The Chair (Mr. Garfield Dunlop): Thank you very much. That concludes your time.

We'll now go to the official opposition.

Mr. Rob Leone: Thank you, Mr. Elliott, for your presentation. Just a question in follow-up on when Mr. Tabuns asked you about ability to pay: Are you suggesting that the government has an endless ability to pay? Is that your issue with some prescription on that?

Mr. Paul Elliott: No, not at all. But it can't just be the only thing that is looked at, because if you simply say that someone doesn't have the ability to pay, you're not looking in the long-term strokes; you're not looking ahead. Not only does the government have an expense account, but they also have the ability to raise revenue. If they decide not to increase revenue and they decide to decrease revenue, that's going to have repercussions all the way down the line. It's contingent upon the government, really, to not only look at expenditures but also the revenue side.

Ability to pay is one part of it, but I think the items that we have outlined, which, as you'll see, are not—if that part is not going to be removed, what we have requested is an additional piece, and I think that additional

piece really balances what an arbitrator should be looking at.

Mr. Rob Leone: You also mentioned in your presentation something to do with the fact that things should be bargained and not done through regulation or legislation. When I talk to parents—I know that regulation 274 has been an issue that we've brought up before—they talk about playground supervision in the schoolyards. They have a variety of issues—extracurricular activities is something I mentioned before.

Is it your position that all of those things are subject to bargaining and not through regulation or through legislation?

Mr. Paul Elliott: Let me deal with the first one, because supervision is probably one that we've been dealing with for a number of years. Probably if you look at almost every single contract out there, there are supervision details built into that.

I know, since I've been a local bargainer—and I'll go back to the early 1990s—we've always had fruitful discussions around discussing what should happen with supervision in the schools, not only for our teachers but also our support staff. We have many support staff who do immeasurable amounts of supervision, which was agreed to by the boards.

When we came to those collective agreements and the school boards raised the issue of supervision, we've been able to come to agreements on supervision. Supervision is something that can vary not only from school board to school board but also from school to school and elementary school to secondary school. That specifically is one thing, considering that that can be a very localized issue, that really should be left to the bargaining process, because not only does that talk about the working conditions; it gets into the learning conditions. But that is something very specifically.

Mr. Rob Leone: Don't you think—

Mr. Paul Elliott: In reg 274, if I can—because you mentioned three things; right?

Mr. Rob Leone: Go ahead.

Mr. Paul Elliott: Reg 274 is kind of an interesting one. For years, we have been trying to get to a hiring practice and to deal with some hiring practices within our collective bargaining agreements that meet both sides. You could probably pick up almost any collective agreement and find within it parameters around the hiring practices, in terms of the responsibilities not only on the employer but the employee groups also.

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Reg 274 is something that I think is broad in scope and it's something that—we have tried to talk to the government about changes to reg 274, and we'll see where those go, but I think that is something that is broad in scope.

We have tried to deal with it, but I think in this new situation that we're dealing with, what we're finding are situations that the government might prefer to do with regulation, and there are things that we prefer to do with bargaining. I think there are some things that really

should be left to bargaining and some things that are happening in regulation.

The Chair (Mr. Garfield Dunlop): And that concludes your time today for everyone.

ELEMENTARY TEACHERS'
FEDERATION OF ONTARIO

The Chair (Mr. Garfield Dunlop): We'll now move forward to the Elementary Teachers' Federation of Ontario: Susan Swackhammer and Victoria Réaume. Welcome to Queen's Park. You have five minutes for your presentation.

Ms. Susan Swackhammer: Thank you. I am Susan Swackhammer, the first vice-president of the Elementary Teachers' Federation of Ontario. With me today is Victoria Réaume, who is our general secretary.

Thank you for the opportunity to participate in today's hearings. I'm here today as the official voice for the Elementary Teachers' Federation of Ontario and am speaking on behalf of 76,000 members who work in English-language elementary schools in every English public board across the province.

By bringing a formal, legal framework to the process of provincial education sector bargaining, the bill represents an important step forward from the lack of clear rules and responsibilities that characterized the informal provincial discussions between the government and education unions under the provincial discussion table process.

With each round, the PDT became increasingly fraught with problems and, as we all know, ended in total chaos between ETFO and the provincial government in 2012. ETFO, including its local leaders and active members, have known for some time that the spectre of provincial bargaining in our sector was on the horizon.

Provincial bargaining in the education sector has become a practical necessity because the provincial government has 100% control over funding and school boards have no authority to raise revenue. When the government removed school boards' authority to raise taxes in 1997, school boards' ability to negotiate directly with their employee unions was dramatically affected. Without any control over education finance, school boards were no longer able to respond to bargaining items that involved increased expenditure.

It's important, however, to protect and preserve the ability of school boards and their employees to negotiate directly on specific local issues. Bill 122's protection of local bargaining and the right to strike at both the provincial and local levels is very important. Collective bargaining is, by its very nature, an adversarial process. For provincial bargaining to be effective in our sector, the legislation must be balanced and fair and perceived as such by all parties involved. This submission identifies amendments designed to ensure that the proposed bargaining framework is indeed balanced and fair and works in the best interests of public education.

Since the introduction of Bill 122, ETFO has worked closely with its sister affiliates, AEFO, OECTA and OSSTF, as well as CUPE, to identify common concerns.

In the short time available for my remarks, I will quickly identify some key areas where ETFO is seeking amendments. We trust the committee members will carefully review our entire submission.

While the government states that Bill 122 establishes tripartite bargaining, the crown is not defined as a party. It should be so defined to clarify its role, its responsibility to bargain in good faith and its obligation to be subject to the unfair labour practice provisions under the Labour Relations Act. As noted in our brief, this amendment would apply to various sections of the bill.

Bill 122 proposes to give the crown extraordinary authority in having a say on what will be negotiated at the central table. The scope of central bargaining should be determined by agreement of the parties. The crown should not have the authority to veto the list of central table items agreed to by the parties.

The bill also gives the government the ability to dictate the term of the collective agreement as either two, three or four years. Such authority interferes with the concept of free collective bargaining. It should be amended to allow the issue to be negotiated by the parties or the term should be fixed by legislation so that the term is known in advance of the commencement of bargaining.

Bill 122 proposes that where an arbitrator makes an award regarding a central table item, that award will broadly apply to all agreements with those central terms. It should be amended to clarify that the arbitration settlement applies only to the parties to the central agreement being arbitrated. A settlement on a central term should not prevail over a local agreement.

The bill gives the minister the authority to establish a notice-to-bargain period of up to 270 days, considerably beyond the current 90-day provision in the Labour Relations Act. Such a long period will only lead to unnecessarily protracted negotiations. ETFO recommends amending the notice period to be within the last 180 days of the collective agreement.

Bill 122 requires a five-day notice period before the employees may initiate strike action and the employer can impose a lockout provision. The bill should be amended to require a five-day notice period to also apply to changes in terms and conditions of employment.

We did not have time to speak to all of our amendments—we have 19—but we would be pleased to answer questions. Thank you. If the questions are of a technical nature, I will refer to our general secretary, who has had the advice of legal counsel.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the government members for their three-minute presentation or questions. Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you very much for being here. I've made note of the issues you've raised. Just for clarification, if the bill is amended, or we propose

amendments later on, to satisfy some of these issues, do you see that this bill will improve the bargaining process compared to previous years?

Ms. Susan Swackhammer: Absolutely. One of the things that ETFO said last time and that we've experienced over the last couple of times—we were told that it was a voluntary process in 2008, and suddenly it wasn't. Last time, we were invited to a table where everything was laid out for us, and we had an hour to accept it and move on. So we said if we sat across the table from people who knew something about education—because you'll remember there were bankruptcy lawyers there the last time who knew nothing about our sector. If we sat across the table from people who really knew what bargaining was for and that there were ground rules, we would be happier. If our proposed amendments are accepted, we would see that framework, and it would mandate who the players were at the table.

Mr. Bas Balkissoon: Okay. Did I hear you correctly that you also consulted with the other unions on some of these issues, and you have agreement amongst yourselves?

Ms. Susan Swackhammer: Yes, that's true.

Mr. Bas Balkissoon: Okay. Have you participated in the ongoing consultations that have gone on with the ministry?

Ms. Susan Swackhammer: Yes, we have.

Mr. Bas Balkissoon: Okay. So you'd be happy to see this bill approved by the committee and sent on to the Legislature as quickly as possible?

Ms. Susan Swackhammer: "Happy" is maybe a stretch, but it would be certainly preferable to what has been happening.

Mr. Bas Balkissoon: Thank you very much, and thank you again for being here.

The Chair (Mr. Garfield Dunlop): Any other questions from the government members?

Okay, we'll now go to the official opposition. You have three minutes.

Mr. Rob Leone: Thank you very much. You'd agree that this is a pretty important piece of legislation, I'm assuming, given your remarks. I noticed that, on the agenda, we have 12 presentations. Three quarters of the list have been filled with, basically, union presentations from the federations. Do you think that having one day of public hearings, five minutes to express your position and three minutes for us to ask questions, is sufficient on this major piece of legislation?

Ms. Susan Swackhammer: Well, unlike what happened to us the last time, there have been months of consultations. We have been invited to Queen's Park to speak on many occasions. We have had opportunities to meet with our other sister affiliates and the trustees' association. I appreciate, for you, you're maybe getting a day, but we're not seeing it yesterday for the first time.

Mr. Rob Leone: Well, isn't that part of the problem, though—that most of the negotiation has been done behind closed doors and that members of the Legislature weren't privy to the discussions and the permutations and

combinations that went in this particular piece of legislation? Here we are, spending three hours hearing and listening to public hearings from people like you. You're making very valid points, but the point that I'm trying to make is, wouldn't it have been nicer to have more presentations from more delegations? I know that we're hearing presentations from teachers and public school boards, but we're not hearing any from principals, who may have a vested interest in this particular piece of legislation—not to mention parents.

Ms. Susan Swackhammer: The truth of the matter is, this is a bill about collective bargaining, and the rights for collective bargaining belong to the unions and belong to the school boards. During your government's last term, you removed principals and vice-principals from bargaining units; they're no longer a union. Therefore, this particular bill can't apply to them.

Mr. Rob Leone: So you don't think they have any say or any interest in what's—

Ms. Susan Swackhammer: Oh, I think they work closely with the school boards' association, but I'm saying I suspect that they're not here today because this bill impacts how ETFO and school boards are going to conduct themselves with the government. We don't represent the principals' association—

Mr. Rob Leone: I would suggest that they're not here today because they didn't have the time to be here today. If there were more slots available for presentations, we probably could listen to some comments and questions that they may have with this particular—

Ms. Susan Swackhammer: You may know that, sir; I don't. I have no more to say on that topic.

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Mr. Rob Leone: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the third party for up to three minutes.

Mr. Peter Tabuns: Thank you, Chair, and thank you, Ms. Swackhammer. Two questions: In the summary of recommendations, you have item 3, "That the bill be amended to provide a statutory requirement for central tables for non-teacher bargaining units in the same manner as provided for teacher bargaining units." When we've been looking into that, we found some legal technical problems defined in the Education Act. Can you enlarge a bit on this item?

Ms. Victoria Réaume: Yes. We have spoken to our affiliates and to CUPE with respect to this item. We are together in believing that it's important to have mandatory central tables for non-teaching staff. We feel that for the non-teaching staff there should be a parallel process which mirrors the process imposed by the bill on teachers.

Mr. Peter Tabuns: Fair enough. If you get a chance just to send us a note with some detail about how that would be structured, it would be very useful.

The second question is on your recommendation 7, "That the bill be amended to include provision for an expedited process for resolving disputes ... " Can you

give us some mechanics of that, the details of how that would be moved forward?

Ms. Susan Swackhammer: One of the challenges about not having the Ontario Public School Boards' Association as a legislated group representing—so when we've gone to these PDT tables, we have had agreements that individual school boards have refused to accept. We have spent millions of dollars and years trying to get a settlement in those areas. We haven't been able to resolve issues—I won't say in all school boards, but in some school boards—and the only people getting wealthy are the lawyers.

Mr. Peter Tabuns: And how would we expedite the process?

Ms. Victoria Réaume: One of the issues is how you determine central item issues and the scope of the central bargaining table. We believe that it should be negotiated between the participants at the bargaining table, but we feel that if there is an issue arising at the local level that a school board might insist is a central issue and not a local issue, there needs to be an expedited manner to resolve that. That's really what our recommendation in item 7 intends to address. We are looking for amendments to ensure that there's always a way to resolve an impasse on these issues.

Mr. Peter Tabuns: I have no further questions. Thank you very much.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the government members. You have up to three minutes.

Interjections.

The Chair (Mr. Garfield Dunlop): Oh, I'm sorry. I apologize.

Mr. Peter Tabuns: We all look the same, Garfield. We all look the same.

The Chair (Mr. Garfield Dunlop): I thought I was looking after the Olympic gold game. I apologize.

ELEMENTARY TEACHERS' FEDERATION OF ONTARIO-YORK REGION

The Chair (Mr. Garfield Dunlop): We'll now go to the Elementary Teachers' Federation of Ontario-York Region: David Clegg. Thank you, Mr. Clegg.

Mr. David Clegg: Thank you.

The Chair (Mr. Garfield Dunlop): Good afternoon. You have about five minutes.

Mr. David Clegg: Thank you. Good afternoon. First of all, I want to thank you for the opportunity to make this presentation. I expect that the perspective I will be sharing will not fit the pattern that you will be hearing for the rest of the day and certainly that you have heard to this point.

I want to put into context the reason that I am here. I am currently a local president representing 5,000 elementary teachers in York region, but previously I had been the provincial president of ETFO and was involved, both in 2004 and 2008, in the informal, voluntary discus-

sions that took place. I want to speak from that perspective in terms of my recommendations.

The first recommendation is where I'll spend my allotted time. I was one of the individuals, certainly, in 2003, who was involved in conceptualizing and ultimately initiating the first set of provincial-level discussions.

ETFO moved in this direction, not because of any disdain for local bargaining or because of a preference for a central bargaining table; our reasons were practical, based upon our experience, and made possible by Bill 80, which legislated that all teacher agreements in the province signed after July 1, 2001, would have an expiration date of August 31, 2004.

In the preceding rounds of local bargaining since the passing of Bill 160, we attempted to address the inequities in working conditions across the province and repeatedly ran into opposition by school boards who pleaded their hands were tied by the funding formula, and we heard the plea that they would be happy to address these issues if they were given the resources to do it.

The solution, if there was to be any hope for province-wide systemic change without the need for multiple job actions, was to approach the government, as the sole source of funding, to make the necessary investments.

In 2004 and 2005, the government met with us, and we were able to achieve a four-year agreement, the longest agreement that had ever been achieved in the public elementary teaching sector. For the government, there was cost certainty, no disruption to students' instructional programs, and a de-escalation of long-standing systemic tensions. ETFO secured increases in salary and benefits for its members, and improved, standardized and more equitable working conditions in two historically contentious areas of concern: preparation time and supervision.

OPSBA, the school boards' association, received the necessary funding to implement the working-condition changes and were alleviated from having to bargain issues that had and would have led to further labour disruptions.

The success of these talks was predicated upon the items for discussion being limited and being agreed to beforehand. There were only three topics: salary/benefits, preparation time and supervision. All three were systemic points of contention at the elementary level, and it was recognized by all parties, given the rigid structure of the funding formula and the inability of school boards to raise revenues, that any solution would ultimately require government assistance.

The dynamic of these discussions was built upon the premise that all parties had something to gain and something to lose. The government was bargaining for peace and stability to meet its political promise to the Ontario electorate and to create an environment for its education agenda; ETFO for an end to inequities in working conditions on key issues across the elementary system; and the school boards' association for enhanced funding that would address systemic labour issues at the

elementary level that school boards did not have the individual will or resources to address.

This was a recipe for success, a recipe which was not subsequently followed or, I believe, replicated in what is proposed in Bill 122.

I've bargained locally and provincially for the last 17 years. It is my perspective that no form of bargaining at any level will succeed if the underlying structure does not create a level playing field.

The current conclusion that Ontario needs this change is primarily one of political convenience, stemming from the unmitigated disaster that occurred in 2012 and 2013 as the result of the heavy-handed and likely unconstitutional actions of the McGuinty government.

The record of legislated centralized education bargaining elsewhere in Canada is not one that should inspire confidence. The temptation for governments to tip the scales in their favour and to rely upon their legislative authority is well documented in the history of collective bargaining in the education sector in British Columbia. In a recent court decision, "The court has concluded that the government did not negotiate in good faith with the union after the Bill 28 decision. One of the problems was that the government representatives were preoccupied by another strategy. Their strategy was to put such pressure on the union that it would provoke a strike by the union. The government representatives thought this would give government the opportunity to gain political support for imposing legislation on the union."

Bill 115, in the Ontario context, is further evidence that governments will succumb to such temptations.

Passing Bill 122 is not something that the Ontario Legislature should consider lightly. Rather, there needs to be a fuller investigation into the antecedents of teacher bargaining in Ontario prior to 2003, and a re-examination of the systemic barriers that led to the first discussions in 2004. Premature passage into law of a system that may institutionalize chaos and confrontation on a province-wide scale should be more carefully considered.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Clegg. We'll now go to the official opposition. You have three minutes.

Mr. Rob Leone: Three minutes to discuss a complicated bill such as this. I'm going to ask the same question I asked the previous presentation delegation. Would you have supported further public consultation, open consultation, on this piece of legislation, given your presentation today?

Mr. David Clegg: Absolutely.

Mr. Rob Leone: Yes? The basis is, I think, you were mentioning that this might "institutionalize chaos." Can you explain that a bit more?

Mr. David Clegg: I hope all of you have taken the opportunity to examine the labour history in the education sector in BC, where they've had centralized bargaining for over 20 years. It is a litany of court cases. It has certainly stymied the progress of public education there, from my perspective. Even as late as yesterday, the BC Teachers' Federation announced that they're going to

take a strike vote again, after one year of attempting to bargain under their current legislation.

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What is contemplated here will forever change the face of how public education operates in Ontario. From a bargaining perspective, I do believe that there needs to be much greater forethought before we move down that road. I would hate to see our province replicate the disaster that has been BC.

Mr. Rob Leone: This has never been legislated before. The government calls this landmark legislation that's going to essentially suggest that there are three parties to every negotiation. Are you suggesting that the whole process of legislating this process is, in itself, problematic?

Mr. David Clegg: It's certainly problematic from my personal perspective. I don't believe that the bargaining process that currently exists is fundamentally broken. I think that the lessons that we learned as an organization between 1998 and 2003—you were dealing with the problem of a funding formula that didn't match the pre-existing collective agreements, you had amalgamation of school boards, you had a host of factors that created very difficult labour conditions. Despite that, the majority of local negotiations were successfully done without any disruptions. I'm suggesting that if you move to this model, the temptations for a government to unbalance, to tilt the playing field, are substantial. Again, I would point to the BC example as to what happens when a government sits at a table yet has the ability to turn to its legislative authority to solve a problem—maybe a political problem—if they so choose.

Mr. Rob Leone: So as this bill currently stands, would you recommend not supporting it?

Mr. David Clegg: I personally would recommend that it not be supported and that much more time be given to considering the potential outcomes that are built into the structures which I don't believe create the level playing field necessary for successful bargaining.

Mr. Rob Leone: Thank you very much.

The Chair (Mr. Garfield Dunlop): We'll now go to the third party. Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Mr. Clegg. You've been very clear. I don't have any questions for you.

The Chair (Mr. Garfield Dunlop): No questions?

We'll now go to the government members for questions. Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you, Mr. Clegg, for being here and thank you for your presentation. I'm trying to judge your presentation versus the one just before you. Are you telling me that you're in total disagreement with the comments from your federation?

Mr. David Clegg: No. I understand the amendments that they're asking for to what I see as fatally flawed legislation. I think that if you read my recommendations, you'll find some commonality in terms of what—if we're not prepared to put this aside, and we're going to move forward with Bill 122, there need to be significant changes. I think my recommendations and those of my

parent organization have very similar flavours. What I am saying is that from my perspective, my experience, this bill is fatally flawed and will not achieve the type of stability that certainly the education sector and, I think, the people of Ontario deserve.

Mr. Bas Balkissoon: So with the amendments requested by your main federation, you believe there could be an improvement to the bill and an improvement to the process.

Mr. David Clegg: I believe theirs would help, but I think mine would help even more.

Mr. Bas Balkissoon: Okay. Thank you very much. No more questions.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Clegg, for your presentation.

ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

The Chair (Mr. Garfield Dunlop): We'll now go to the Ontario English Catholic Teachers' Association, OECTA. Warren Grafton will make the presentation. Welcome to Queen's Park, Mr. Grafton. You have five minutes for your presentation.

Mr. Warren Grafton: Thank you. I want to thank the committee for the opportunity to speak to you today about Bill 122, the School Boards Collective Bargaining Act. I'm joined today by Cheryl Fullerton, from our government relations department.

OECTA represents the 45,000 women and men who have chosen to teach in the publicly funded Catholic schools in Ontario. Our members teach in all grades from junior kindergarten to grade 12.

Since the passage of Bill 160 in 1997, collective bargaining has taken place without a negotiations framework that recognizes the fundamental changes to education funding and to the roles of the various unions represented, working in those publicly funded schools.

The abject failure of the voluntary PDT process to deal effectively with collective bargaining during a period of fiscal restraint became apparent to all in 2012. Soon after Premier Wynne took office, she indicated that she wanted to initiate consultations with education stakeholders about developing collective bargaining legislation for the education sector. Those consultations have taken place, and we have been party to those consultations.

The proposed legislation does outline the roles of various participants in the collective bargaining process and does reflect much of what we heard and discussed during the consultation process, but there are a number of areas where we believe amendments could be made that would strengthen and improve the bill.

It is important to note that the areas that we have identified as needing an improvement or a clarification are aspects of the bill that all teacher affiliates recognize as being critical. Although our brief does include a number of key recommendations, there are two areas in

particular that we believe must be addressed by the committee when it makes amendments to the bill.

The first is to ensure that the government is a party in the bargaining process and has the same obligations as any other party. The government has been clear that it does not intend to assume the role of employer at the bargaining table, which is consistent with its position that school boards will continue to act in that capacity. OECTA concurs; we believe that the crown should not take over the role of employer.

The bill clearly outlines the role of school boards at central and local tables, and their responsibilities under the Ontario Labour Relations Act. What the bill is not clear about is the government's role in the legislation.

Under certain provisions of the proposed legislation, sections 28(1) and 32(1), the crown is bound to bargain with the parties in good faith and make every reasonable effort to agree upon matters to be included in the scope of central bargaining and upon central terms. Of concern is the fact that the bill does not expressly state that the crown is prohibited from committing unfair labour practices prohibited under the Ontario Labour Relations Act. Among these are section 70, that employers not interfere with unions; section 72, that employers not interfere with employees' rights; section 73, that employers not interfere with bargaining rights; and section 76, intimidation or coercion re membership in a union.

Although the bill is clear that the employment relationship is with a school board, not the crown or employer bargaining agent, OECTA believes that it is important to ensure that it is the crown's duty to bargain in good faith, both in the scope of central bargaining and on the central terms, and that it is enforceable under the Ontario Labour Relations Act. To that end, OECTA is proposing an amendment to section 4.2 of the bill that would ensure that the crown's bargaining duty is enforceable as an unfair labour practice.

The other area of the proposed legislation that most concerns OECTA is section 42(1), dealing with grievance arbitration of disputes related to the central terms of the collective agreement. Although the bill provides for the opportunity to file a grievance about such an issue, the only remedy available to an arbitrator under this section is to make a declaration about the issue in question.

While a declaration is a clear finding, it does not ensure that the finding is enforceable. OECTA recommends that the provision also include that a direction be obtained. It is only through a direction that a local board must comply with a declaration of an arbitrator made under the central issue. Without this requirement, all school boards and teacher bargaining units must apply central terms locally; then we will be arbitrating the same issue over and over again, taking funds out of the classroom as boards raid classroom funding in order to pay lawyers and uphold the grievance process.

The Chair (Mr. Garfield Dunlop): Thank you very much for that presentation.

We'll now go to the third party. You can open the questions, three minutes. Mr. Tabuns.

Mr. Peter Tabuns: Thank you for coming in today. I'd like to go to that second point you were touching on, and that's the direction from an arbitrator and its application throughout. Can you tell us your experience with this to date? What has brought you to make this recommendation?

Mr. Warren Grafton: Well, one of the issues that we have had to date is that, when we have bargained a central issue under the MOU, or even previously under the PDT process, some of our boards have been very reticent to engage that issue. So we have, by necessity, had to grieve that same issue over and over and over again across the province to get resolution to the issue.

While that is an issue of funding for our teacher affiliates, because we do take that money out of our membership funds, it is more an issue of public tax dollars being used and taken out of classrooms and out of support to students in order to support multiple grievances across the province on a board-by-board basis.

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Mr. Peter Tabuns: A question that I asked a previous presenter, about the matter of determining what's going to be on the bargaining table, centrally: Can you speak a bit about the necessity, from your perspective, to negotiate what actually is going to be the scope of the bargaining?

Mr. Warren Grafton: I have been a local bargainer. I started bargaining in 1998 in Waterloo, and I've bargained locally in Waterloo since that time. One of the problems I see in the current bargaining process is the imposition of ideas upon the entire process. From time to time, in a local issue, a local bargaining process, there are some issues that the board and the union agreed, "You know, they're running fairly smoothly now. We don't need to touch that." So it was beneficial to be able to focus on the issues that were causing some concern across the board.

I think if we have an issue where those concerns can be imposed unilaterally by the minister, we have some issues with that because then the minister might indeed say, "You know, the government is concerned about this issue, but neither the boards or the unions are." The government could be opening issues in bargaining that we don't necessarily need. It is always more beneficial to negotiate and to talk and to come to agreement about what we need to discuss than to have one or more parties demand and impose something upon them.

Mr. Peter Tabuns: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): We'll now go the government members. You have up to three minutes for questions.

Mr. Bas Balkissoon: Thank you very much for being here. I've made note of your comments with regard to the government being part of the process of bargaining in good faith. I'd have to say to you, along with the other issue you raise, which is the grievance issue, should those amendments come forward—I understand that you've

raised that issue before—do you feel that the bill will certainly improve the bargaining process that has taken place, compared to previously?

Mr. Warren Grafton: In comparison to the previous bargaining process, especially the most recent one, yes. I think having a process is the way to go. We need to have something in place that says what the roles of each of the parties are and to allow each of the parties to function within their roles. Provided that some of the amendments are done, then OECTA does support having a central table with a clear, defined process for bargaining. The last 15 years have been chaotic in many ways. In 2004, we achieved a PDT. No, in 2004, we didn't achieve a PDT, but we did in 2008. The MOU—it's certainly been chaotic, a long process.

Mr. Bas Balkissoon: Would you say—I think you started to comment on it—that the change in funding where school boards used to raise their own funds—that particular power being removed from them is what resulted in the chaos that has happened in the last couple of rounds of bargaining?

Mr. Warren Grafton: Well, I would suggest that the school boards not being able to raise their own funds and the government being the sole source of funding has in part created that chaos. I would note that that power wasn't taken away from the school boards and that they voluntarily gave that up.

Mr. Bas Balkissoon: Okay. Seeing that the government is now the funder and there wasn't a framework, do you see this bill as a framework required and absolutely necessary, and we should move forward very quickly to have it adopted?

Mr. Warren Grafton: Yes.

Mr. Bas Balkissoon: Thank you very much, and thank you for being here.

The Chair (Mr. Garfield Dunlop): No further questions from the government members? Okay.

We'll now go to the official opposition for three minutes.

Mr. Rob Leone: Thank you very much for the presentation. I just want to pick up on that last conversation, where you suggested that the school boards had given up—you believe that they voluntarily gave up their ability to raise funds. Why do you think they did that? What was the purpose of that? I was still in school when this all happened.

Mr. Warren Grafton: I cannot read the minds of trustees, let alone trustees that are in the past. My understanding is that they were looking for an established process of equal funding across the province, which was achieved.

Mr. Rob Leone: Do you think that that process is fairer, or would you argue against that? Obviously, how negotiation takes place is underlying. The problem, as I remember it, and I was in high school at the time, was that some boards were wealthy and some boards were not. Part of the equalizing of the funding formula allowed all boards to have the same money. Is that a position that you wouldn't encourage?

Mr. Warren Grafton: I strongly encourage fair funding. I do believe that the funding formula still has many faults in it that need to be addressed.

Mr. Rob Leone: So do I, okay.

You made a comment as well that I took interest in and that I wrote down. You said that money was taken out of the classroom for grievances, and the process for resolving grievances was taken out of the classroom. Do you have an estimate of how much money that is?

Mr. Warren Grafton: I do not know how much money the boards are spending. I could suggest that for the federations it's to the tune of millions of dollars.

Mr. Rob Leone: Millions of dollars?

Mr. Warren Grafton: Yes.

Mr. Rob Leone: And has that, over the years, gone up?

Mr. Warren Grafton: Yes.

Mr. Rob Leone: Yes. Would you have a ballpark in terms of how much it has gone up over the years?

Mr. Warren Grafton: No, I'm sorry. I don't.

Mr. Rob Leone: Okay. These grievances are a result of negotiated settlements not being lived up to according to what was negotiated—would that be fair to say?

Mr. Warren Grafton: Yes. It's about the interpretation of those negotiated settlements in various boards—individual boards. By and large, I believe most boards will abide by most parts of the agreement, but there are parts of the agreements that boards have, in the past, said—"You know, we don't agree with that part," or "We don't agree with the interpretation of that part of the agreement." So we have, on a board-by-board basis—and during the last round with the MOU—tried to address that with a dispute resolution mechanism which hasn't worked out well because of the lack of a central authority.

Mr. Rob Leone: So, as we begin to negotiate more and more things, is that the reason why dollars for grievances are going up? We're talking about working conditions, supervision and those kinds of things. Is that the reason why—

Mr. Warren Grafton: It's not about what we're negotiating, because we've always negotiated working conditions, we've always negotiated planning time, we've always negotiated supervision; it's about an attitude and approach that says that just because it was negotiated at the central table doesn't mean I, as a board, necessarily agree and have to follow it.

Mr. Rob Leone: I see. Okay. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much for your presentation today.

MR. JOHN DEL GRANDE

MR. SAM SOTIROPOULOS

The Chair (Mr. Garfield Dunlop): We'll now go to John Del Grande and Sam Sotiropoulos, Toronto school board trustees. Gentlemen, welcome to Queen's Park. You have five minutes for your presentation.

Mr. John Del Grande: We'd appreciate if you'd give us the three-minute warning when it comes up.

I thank the committee for the opportunity to present here today. My name is John Del Grande. I'm an 11-year trustee with the Toronto Catholic District School Board. The views I submit are my own, but have also been formed based on discussions with other trustees around the board table in the past.

I'm sharing my time today with my public school counterpart, Trustee Sam Sotiropoulos. I'll note that we're the only ones here, given limited witness time, to truly represent direct employers' interests.

It has been reported that the minister made suggestions that teachers' unions and employers were in support of this bill. I believe this to be a misnomer because nobody asked local school boards directly.

I'm disappointed in the fact that such a critical piece of legislation, which fundamentally changes the law and employer authority of school boards and gives rise to new empowerment of school board associations, only gets three hours of hearings.

I have expressed support for some method of central authority on financial matters, given 95% of the school board funding comes from the Ministry of Education and property tax levies.

The missing element of this bill is the fact that central elements are not properly defined. It should not be up to the minister to define what is centrally going to be bargained from time to time and place to place. It needs to be consistent year to year so you have direct knowledge from the school boards and the unions on what's going to be central versus what's going to be locally bargained.

Aside from clear scope, both trustees are here today with a concern of empowerment of the school board associations for which they were never mandated. I've reviewed the mission and vision, including the original scope of our association when it was first formed by our board, and nowhere did it include direct labour relations and bargaining. By designating these associations, the autonomy of local school boards was infringed and could violate the association of trustees. At no time did our board confer bargaining authority to its trustee association. In fact, the last PDT MOU—we specifically never gave a board-approved motion, yet the association perpetrated its authority unilaterally.

Some \$1.7 million of taxpayer money is flowed from Catholic school boards into our association with little transparency. I sat as a director there and was unable to get detailed financial information including staff salaries. These organizations govern themselves as private, non-profit companies, which is completely wrong when government and taxpayer money almost completely funds their operations.

I'm concerned that hundreds of thousands of dollars have already started to flow through these associations, and I suspect others, with more on the way, even before the bill has taken full effect. If they're going to give rise to the empowerment of associations, we need to have a

clear and transparent process for school boards to have direct authority over who gets selected on the bargaining team and public accountability in terms of the funds that are being used. The model today does not provide that.

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Mr. Sam Sotiropoulos: Thank you. I too want to echo the sentiments expressed by my counterpart around the issue of the limited scope of the public consultation on this very important bill. Three hours is certainly not enough time. I would say that most of my colleagues are oblivious to the fact that we're having this meeting here today, despite the fact that the rain of emails that we get on a consistent, daily basis included somewhere in that, perhaps—although I wasn't privy to it—a notice that OPSBA was going to be involved in these hearings today. I cannot confirm having received any such notice myself.

I want to bring two points to the table here which are crucial, I think. With respect to the employer bargaining agency and coercive regulation—or the lack of regulation—around the establishment of the collective employer bargaining group, the TDSB as it stands at this point in time is not a member, technically, of OPSBA. We have not paid our membership fee for this year, the deadline for which was September 30. So the question arises, of course, of whether or not any employer agency designated or delimited by the minister has any sort of bargaining rights for the TDSB per se.

The second point that I wish to raise is 21(4), around voting. It seems as if a double majority of some kind is required here, because the disproportionate nature of the representation of the TDSB on OPSBA is not reflected in the language in 21(4), because it states explicitly:

“If voting is required in respect of collective bargaining by a trustees' association, the outcome of a vote must be decided by the approval of a majority of the school boards that are represented by the association, with their votes weighted to reasonably reflect, for each school board, the size of the bargaining units containing employees of the school board.”

I submit to you, ladies and gentlemen of the committee here, that the Toronto District School Board is in a league of its own. Our representation is disproportionately underwhelming at OPSBA. This particular voting clause requires some clarification if it's to be effected.

I would speak against the adoption of this particular bill at this time.

Thank you for indulging our delegation here today.

The Chair (Mr. Garfield Dunlop): Thank you so much for your comments.

We'll now go to the government. You have three minutes for your comments. Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you for your deputation. I've got your input here and I'm just wondering about the recommendations you put in front of us, especially number 4, if that responsibility rests with us.

Mr. John Del Grande: Well, I will say that if this bill comes to pass, you're empowering associations with brand new authorities they never had, and if it's going to

pass in this nature, then there's a responsibility for the House to ensure that the right pieces are in place for these associations if they're going to act in that capacity and to act as a public trust, because dollars are going to flow through them, and they're flowing to the school boards. Those are public dollars. So absolutely we need the transparency pieces enacted in legislation.

Mr. Bas Balkissoon: No, but my point is, does that responsibility to resolve this problem—because it's an internal problem within the association that is a not-for-profit, as you stated—rest with the provincial government or does it rest with the members of the association?

Mr. John Del Grande: It rests with the provincial government, because they're giving authority now to these groups to act in an official capacity. Historically, they were not in an official capacity, so that would have been an internal issue. But now, by enacting them as a sole authority, absolutely.

Mr. Bas Balkissoon: Okay. Thank you, Mr. Chair. That's all I have.

The Chair (Mr. Garfield Dunlop): Further comments from the government members? Ms. Mangat.

Mrs. Amrit Mangat: OPSBA spoke in their representation earlier about how the language of the bill must be modified in order to put in place a system that will allow the crown and school board associations to fulfill their shared responsibilities. Do you support that recommendation or no?

Mr. Sam Sotiropoulos: As an individual trustee, I do not. My sentiments, I think, are shared by a number of my colleagues; I'm not speaking for anyone else, though. But the fact that we have not paid our OPSBA membership for this year speaks volumes about our status in that organization at this time, despite what they may have maintained.

Mrs. Amrit Mangat: That's the reason why you are not supporting the recommendation?

Mr. Sam Sotiropoulos: I'm sorry, I'm unclear as to your question.

Mrs. Amrit Mangat: That's the reason that you don't support the recommendation about modification of the language?

Mr. Sam Sotiropoulos: I'm not aware. I was not present for their recommendation, so I can't speak to something that I'm not aware of.

Mrs. Amrit Mangat: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): We'll now go to the official opposition. You have three minutes.

Mr. Rob Leone: While I appreciate, gentlemen, your presentation today, I notice that you're from the Toronto Catholic and Toronto District School Boards and you have easy access to come to Queen's Park to make a presentation. I guess I'm wondering whether there would be other locations, in other school boards in other parts of the province, that may have trustees who feel similar to you who are actually not going to be able to make the same kind of presentation that you're about to make.

Does that, to you, speak to the fact that we should have opened up the public hearings on this particular

piece of legislation—not just here in Toronto, but to travel around the province to solicit some feedback in our local communities?

Mr. John Del Grande: Absolutely. Trustees are the designated authority of their school boards and they hold the responsibility of it. Even in my own board, we're not tabling the discussion on Bill 122 until tomorrow, so it's too late to even have an official position as a board. It goes to show you how far and few communications have been in really trying to understand what's happening here. There are all kinds of proposed amendments and no time to chew on them.

Mr. Sam Sotiropoulos: I will even add, if I may, that within our board, our representatives at OPSBA have been anything but forthcoming or even offering information relating to any of this material.

Mr. Rob Leone: So they basically have shut you out, is what you would say?

Mr. Sam Sotiropoulos: Yes, effectively.

Mr. Rob Leone: So they've been part of the conversation; you have not been part of the conversation. I find that very interesting.

What do parents say to you, as trustees, about certain concerns that they bring forward? I know that we, as legislators, hear about merit-based hiring and regulation 274. We hear about new teachers having problems getting jobs. We hear about extracurricular activities in the public school boards being taken away during the Bill 115 process. We hear about the supervision and safety of children in the schoolyards. What do you say about the ability of your boards to address these concerns given the constraints that are presented to you?

Mr. Sam Sotiropoulos: If I may, around the challenges, the funding challenges in particular, the TDSB finds itself in with respect to things like—and this again speaks to the disproportionate representation that we would have on OPSBA to deal with localized matters such as the funding of the early childhood educators. We pay on average, I believe, \$6 to \$7 more than any other board in the province and we're not funded for that, according to the funding formula.

Mr. Rob Leone: Sixty-seven dollars more?

Mr. Sam Sotiropoulos: Six to seven dollars—I can't remember the exact figure—per hour at the high end that is not accounted for in the funding formula. This is a very local issue and yet, because we are the largest public school employer in the province, this translates to quite a few million dollars for us. So we're taking monies from Peter to pay Paul in many other facets of the operation and it does affect things like supervision.

Office administration in particular is a tough one. Honestly, I will never get used to the notion that I dial up a school, and at lunch, a student picks up the phone. I have a huge issue with that. There's a safety concern there because, to be honest with you, I've elicited information from students that they should never have told me—i.e., their name, for one—which is a matter of some concern and of grave concern to parents, I'm sure, if they were ever made aware of that.

Mr. Rob Leone: Do you think those—

The Chair (Mr. Garfield Dunlop): Okay, that's the time for that—

Mr. Rob Leone: Thank you.

The Chair (Mr. Garfield Dunlop): We'll now go to the third party.

Mr. Peter Tabuns: I have no questions. Thank you, Chair.

The Chair (Mr. Garfield Dunlop): Would you like to finish that question off? We've got a bit of time here.

Mr. Rob Leone: Sure. I'm just saying, to what extent do you think parents would have some say on some of these issues that are presented to you?

Mr. John Del Grande: Thank you. I've heard multiple times from the government over the years, "Local decisions for local bodies for local issues." Parents and students are looking for their local representatives to answer the questions and enact what needs to happen. All I see is pointing different fingers at different committees, different associations. Where is the accountability layer? The government is the first to point back when schools have to close, but they're the ones that put all the regulations in place. That's the problem with these kinds of things, in terms of who is actually acting as the authority level here and who can actually be accountable to the parents. Ultimately, it's us.

The Chair (Mr. Garfield Dunlop): Thank you for your presentation today, gentlemen.

ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION

The Chair (Mr. Garfield Dunlop): We'll now go to our next presenter, the Ontario Catholic School Trustees' Association: Marino Gazzola and Kevin Kobus. Welcome. Good afternoon, Mr. Kobus. I hope things are going well for you.

Mr. Kevin Kobus: Hey, Garfield. Good to see you.

The Chair (Mr. Garfield Dunlop): Welcome to Queen's Park. You have five minutes for your presentation.

Mr. Marino Gazzola: Thank you. The Ontario Catholic School Trustees' Association represents all of the province's 29 English-language Catholic district school boards. On behalf of the association, I'm pleased to say that we welcome the opportunity to be integrally involved in the consultation process established to develop Bill 122, the School Boards Collective Bargaining Act, 2014.

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While Bill 122 includes many of our recommendations, there remain some important amendments that would address the concerns of Catholic school board employers and the needs of Ontario's education sector as a whole.

Section 12, central and local bargaining: OCSTA would recommend that subsection 12(1) of Bill 122 be amended to state that both local and central bargaining "will" take place; the current language says "may."

OCSTA also recommends that subsection 12(2) be amended to reflect the mandatory nature of the next central bargaining process by replacing the word “if” with the word “when.”

Section 13, parties to central bargaining, is unclear under what circumstances the crown would not participate in central bargaining. OCSTA recommends that subsection 13(2) be amended to say, “The crown will participate in central bargaining of each central table.”

Subsection 16(2), duty to co-operate: Section 17 of the Labour Relations Act requires both parties to bargain in good faith and make every reasonable effort to make a collective agreement. OCSTA therefore recommends that subsection 16(2) of Bill 122 be amended such that all parties—the employer bargaining agency, the employee bargaining agency and the crown—are obligated to co-operate in good faith in preparing for and conducting central bargaining. It currently applies only to the employer bargaining agency.

Subsection 21(11), requirement to pay fees: To ensure adequate funding for the labour relations activities set out in Bill 122 and the necessary costs associated with expanding the role of trustee associations, OCSTA recommends that the legislation be amended to make reference to the provision of direct funding to school boards to specifically address costs associated with labour relations and the collective bargaining process.

Subsection 22(1), substitution if employer bargaining agency unable or unwilling to act: This section allows for the employer bargaining agent to be substituted if, in the opinion of the minister, the agency is unable or unwilling to perform its duties. OCSTA has concerns that the section does not clearly articulate the test to be applied in order for the minister to relieve the OCSTA bargaining team of its duties to represent Catholic boards, nor is there any mechanism to receive notice or provide submissions on the minister’s decision. The steps for establishing the committee are also unclear. The minister is granted total discretion under section 22. In our submission we’ve set forth a five-point approach that we believe would be acceptable.

Subsection 34(4), consent for lockout in respect of central bargaining: Pursuant to subsection 2(3) of Bill 122, the school board retains its status as the employer of the employees. Requiring consent of a non-party, i.e., the crown, before a lockout is inconsistent with the status of school boards as a party to central bargaining and as the employer. OCSTA therefore recommends that subsection 34(4) be amended to delete the requirement for crown consent to lockouts in central bargaining.

Subsection 35(2), definition of “strike”: This section is essentially identical to the current definition of “strike” in section 277.2 of the Education Act. In our view, there is an opportunity to amend the definition of “strike” to expressly include co-instructional activities, and add a definition of co-instructional activities.

Our proposed amendment is indicated below in bold, underlined font. The first parts are the current legislation. We would add, under (c), “but not limited to programs

involving co-instructional activities”. We would also include a definition for co-instructional activities that would read:

“For the purposes of this act, ‘co-instructional activities’ means activities other than providing instruction that,

“(a) support the operation of schools,

“(b) enrich pupils’ school-related experience, whether within or beyond the instructional program, or

“(c) advance pupils’ education and education-related goals, and includes but is not limited to activities having to do with school-related sports, arts and cultural activities, parent-teacher and pupil-teacher interviews, letters of support for pupils, staff meetings and school functions but does not include activities specified in a regulation made under subsection (1.2).”

I thank you for the opportunity to be here today.

The Chair (Mr. Garfield Dunlop): And thank you very much for your presentation.

We’ll now go to the official opposition. Mr. Leone.

Mr. Rob Leone: Can I just ask what section of the legislation you’d like to see those amendments added to—what you just said?

Mr. Marino Gazzola: It actually forms part of the education—the definition of a strike. That’s where we would include it.

Mr. Rob Leone: Okay, very good.

Mr. Marino Gazzola: Collective bargaining legislation doesn’t come around very frequently and it’s not opened up. So this would give an opportunity to add something that we think would be good and help out, especially when it comes to the bargaining.

Mr. Rob Leone: And in particular, how would that help in terms of your perspective, differently than what’s currently in place?

Mr. Marino Gazzola: First of all, right now when you get into a bargaining issue, whether it’s a strike or a lockout, but even a work-to-rule, it’s detrimental to the school. It stops the activities that go on at the school. We firmly believe that sports and the cultural activities are all part of a well-rounded, complete education of a student, and the taking away or the interruption of those activities is detrimental.

Mr. Rob Leone: So you would support listing those items, extracurricular activities being one of them, that would not be subject to job action? Is that what I’m hearing clearly?

Mr. Marino Gazzola: Yes.

Mr. Rob Leone: Okay. Well, there’s going to be some interest, I think, in that particular aspect.

I know that over the course of the last job action, public school boards underwent a job action, but the Catholic ones did not. Can you give some indication as to what effect that had on you? I know a lot of parents in my riding suggested they were going to leave the public school system and go to the Catholic school system as a result of the stability there. Did you experience that province-wide?

Mr. Marino Gazzola: I don't know about province-wide. There were certainly some calls, but I think it has to be clear that, in the last round, the contracts were imposed; the boards were not part of those negotiations.

Mr. Rob Leone: But in terms of the question, you don't have any statistics or anything like that, that would lend themselves to that.

You mentioned extracurricular activities. One of the things that we're very interested in is regulation 274. Do you think that there would be room to add to your proposed amendment provisions that would allow regulation 274 to be part of perhaps some way of ensuring the parents have the best teachers in the classroom?

Mr. Marino Gazzola: First of all, I think any time the parents have a view, it's important to listen to them. I also think it's very important that the best candidate be given the job, which would basically give the best education to a student.

Mr. Rob Leone: Well, it's just unfortunate that we don't have parents here to talk about these sorts of matters, and as I have belaboured on and on again—I think the Chair is going to say I'm out of time—but I think we would have benefited from some of their input.

The Chair (Mr. Garfield Dunlop): Thanks, Mr. Leone. We'll now go to the third party: Mr. Tabuns.

Mr. Peter Tabuns: Thanks, Chair, and thanks, Mr. Gazzola, for the presentation today. The first item that you raised was this matter of whether central bargaining will take place. The current language says "may." Have you discussed this with the government, or is there an indication why they used permissive rather than directive language?

Mr. Marino Gazzola: I really don't know why the language is in there. I think we just need to ensure that the bargaining definitely will take place. Any time you leave an option open, it can be taken, and I think we have to have the assurance that it will take place. We can't go through what happened last time.

Mr. Peter Tabuns: Agreed. The matter of the crown participating in central bargaining at each central table: I just assume that they would be. Currently, the act is written such that they don't have to be part of the bargaining?

Mr. Marino Gazzola: I think if it's going to be a tripartite bargaining process, they have to be involved, and I think it's necessary to know that the mandatory obligation will be there.

Mr. Peter Tabuns: Okay. And you haven't had a discussion with them about this?

Mr. Marino Gazzola: No.

Mr. Peter Tabuns: Well, I think you raise a very valid point.

I don't have further questions, Mr. Chair. That was very useful. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you. Government members?

Mr. Bas Balkissoon: Just a comment to the deputation. Thank you very much for being here. I've noted all the things you've said, because they're similar to the previ-

ous deputants, and hopefully we'll come back with the amendments that everybody will agree with.

The Chair (Mr. Garfield Dunlop): Thank you so much, gentlemen, for your presentation today.

ASSOCIATION DES CONSEILS SCOLAIRES DES ÉCOLES PUBLIQUES DE L'ONTARIO

The Chair (Mr. Garfield Dunlop): We'll now go to our next deputation, l'Association des conseils scolaires des écoles publiques de l'Ontario: Denis Labelle, president, and Louise Pinet, executive director.

Good afternoon, folks. Welcome to Queen's Park. Will your presentation be in French? You can do it either way; we have translation. You have five minutes.

Mr. Denis Labelle: Let's negotiate. I'll do the presentation in French, and we can answer in English. How's that?

The Chair (Mr. Garfield Dunlop): Okay.

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M. Denis Labelle: Monsieur le Président, mesdames et messieurs les députés, je me nomme Denis Labelle et je suis le président de l'Association des conseils scolaires des écoles publiques de l'Ontario, l'ACÉPO—that's the acronym. M^{me} Louise Pinet, la directrice générale de l'ACÉPO, m'accompagne aujourd'hui.

Nous vous remercions de nous avoir accordé du temps aujourd'hui et nous souhaitons que toutes les modifications apportées au projet de loi permettent à mieux encadrer le processus de négociation collective dans le système scolaire de l'Ontario.

À notre avis, le projet de loi 122 doit être adopté rapidement dans le but d'assurer la réussite des négociations futures, mais surtout pour assurer la réussite scolaire et le bien-être de chaque élève sans interruption dans leur apprentissage scolaire.

Nous avons huit recommandations ici. La première recommandation : l'ACÉPO recommande que le projet de loi garantisse que les quatre associations d'employeurs siègent comme partenaires égaux au sein des organismes patronaux auxquelles elles participent.

La deuxième recommandation : l'ACÉPO recommande que le projet de loi indique clairement que le gouvernement, les associations d'employeurs et les syndicats doivent tous négocier de bonne foi.

La troisième recommandation : l'ACÉPO recommande l'ajout de garanties du respect des droits linguistiques dans le processus de négociation collective prévu dans le projet de loi 122.

Quatrièmement, l'ACÉPO recommande que le gouvernement garantisse que l'ACÉPO pourra travailler en français.

La recommandation numéro 5 et l'article 6 du projet de loi 122 : l'ACÉPO recommande que le projet de loi 122 ne permette pas de défaire, ni n'empêche de créer, des unités de négociation combinées dans les conseils scolaires.

Recommandation numéro 6, l'article 21(6) du projet de loi : l'ACÉPO recommande qu'en ce qui a trait à la

négociation provinciale avec le syndicat l'AEFO, le projet de loi crée un organisme central négociateur ayant comme partenaires égaux l'ACÉPO et l'AFOCSC, conformément à la recommandation 1 ci-dessus.

Recommandation numéro 7 : l'ACÉPO recommande que pour tout modèle de transmission et de calcul de fonds nécessaires aux associations pour remplir efficacement le mandat d'organisme négociateur des employeurs, la méthode de calcul doit être juste et équitable, peu importe le nombre d'employés, d'élèves ou de conseils scolaires au sein de l'association.

La dernière recommandation, numéro 8, l'article 22 : advenant le cas où le lieutenant-gouverneur en conseil crée un comité pour se substituer à l'association d'employeurs membres d'un conseil, il doit obligatoirement y avoir un représentant des conseils scolaires publics laïcs de langue française sur ce comité.

Nous sommes ici, en conclusion, pour vous dire que l'ACÉPO est en accord avec le principe et les grandes lignes de ce projet de loi qui rend légitime un processus pour la négociation des conventions collectives entre les conseils scolaires et leurs employés au palier provincial, tout en respectant la négociation locale. Merci beaucoup.

The Chair (Mr. Garfield Dunlop): Thank you very much. Merci. We'll now go to the third party. You have three minutes for any questions or comments.

Mr. Peter Tabuns: Je suis désolé. Je parle seulement un peu de français et je dois parler en anglais.

I need to be very clear, because you have a number of important recommendations here, but the most important for me is that you are recommending that the two francophone school boards be allowed to work together as one employer unit for purposes of negotiation. I want to make sure I've understood that correctly.

Mr. Denis Labelle: That's correct.

Mr. Peter Tabuns: Okay. And you have two recommendations, 6 and 7—and, again, because my French unfortunately is not as strong as I'd like it to be: You are recommending that there be no obstacle put in the way of this taking place.

Mr. Denis Labelle: That's correct.

Mr. Peter Tabuns: Okay, that's really critical to all this.

What do you see is the advantage to that being done? I understand as long as people's rights are fully respected, you're comfortable with it. What do you see is the advantage of doing it?

Mr. Denis Labelle: More specifically it is in the—c'est dans le mémoire, basically. But I will let Louise handle that question here, just to some of the advantages.

M^{me} Louise Pinet: Le principal avantage, c'est qu'il y a un syndicat qui représente les employés dans le système d'éducation publique—de langue française publique laïque—mais aussi les employés dans le système d'éducation catholique de langue française. Puisqu'il n'y a qu'un seul syndicat, nous ne voulons pas une surenchère entre les deux groupes d'employeurs. Alors, nous voulons travailler ensemble pour assurer une équité dans le système.

Mr. Peter Tabuns: I want to thank you. That was very useful and very clear.

The Chair (Mr. Garfield Dunlop): Are there any other questions from the third party? Okay.

To the government members then: You have three minutes. Mr. Crack?

M. Grant Crack: Bienvenue, monsieur Labelle et madame Pinet. Merci pour votre présentation cet après-midi. Vous avez mentionné, dans recommandation numéro 3, l'ajout de garanties du respect des droits linguistiques dans le processus. Dans le passé, est-ce qu'il y avait des préoccupations avec le processus?

M^{me} Louise Pinet: Merci de votre question. Il faut dire qu'au niveau du gouvernement, on a fait de grands efforts pour augmenter la capacité de négociations en français du côté des employés de la fonction publique au ministère de l'Éducation, et nous voulons nous assurer que lorsque nous allons travailler en français, nous allons pouvoir le faire de façon efficace. Nous savons aussi que dans le modèle où nous pouvons travailler avec nos collègues de langue anglaise, il faut avoir une capacité de service dans les deux langues et de s'assurer que ça ne soit pas séquentiel mais que ce soit parallèle ensemble pour pouvoir arriver à des solutions efficaces. Nous avons bon espoir qu'avec le projet de loi, cela sera mis en oeuvre d'une façon positive.

M. Grant Crack: Merci beaucoup, et merci pour les huit recommandations. Pensez-vous que c'est une amélioration dans le processus avec le projet de loi 122?

M. Denis Labelle: Sans doute, c'est un 360. Puis, nous sommes fiers de pouvoir dire que nous supportons la nouvelle législation comme telle—telle que proposée. Je suis très impressionné là du fait qu'on a eu beaucoup de présentations. Nous avons été bien informés dans le processus, et en plus de ça, il y a eu une consultation qui s'est fait. C'est la raison pourquoi nous sommes ici aujourd'hui : nous sommes prêts à dire que l'ACÉPO supporte le changement comme tel.

M. Grant Crack: Merci.

The Chair (Mr. Garfield Dunlop): No further questions, Mr. Crack? Thank you very much.

We'll now go to the official opposition. Mr. Leone.

Mr. Rob Leone: I have no questions.

The Chair (Mr. Garfield Dunlop): No questions. Mr. Smith, any questions? Okay.

Thank you so much for your presentation today. It's a pleasure to have you here.

Mr. Denis Labelle: Same here. Merci beaucoup.

M^{me} Louise Pinet: Merci, monsieur le Président.

CUPE ONTARIO

The Chair (Mr. Garfield Dunlop): Our next presenter is CUPE Ontario and Mr. Fred Hahn, the president, and Terri Preston is with you as well.

Mr. Hahn, you have five minutes for your presentation, please.

Mr. Fred Hahn: Okay. Good afternoon. My name is Fred Hahn. I'm the president of CUPE Ontario, and with

me today is Terri Preston, who is the elected chair of our school board workers' coordinating committee.

CUPE represents 55,000 school board support staff in schools across the province, in public and Catholic boards, elementary and secondary boards, and English and French boards. CUPE's education workers keep our schools clean, safe and functioning. They are custodians, stationary engineers, early childhood educators, school secretaries, administrative staff, bus drivers, foodservice workers, educational assistants, library technicians, English-as-a-second-language instructors, literacy instructors, community advisers and IT staff, both in schools and at board offices. The majority of our members in the school board sector are women, and the average wage of those workers is \$38,000 a year.

CUPE's Ontario school board workers' committee coordinates activities among 113 bargaining units, including the election of a central bargaining committee to represent members in any province-wide discussions or negotiations.

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Any meaningful discussion today about Bill 122 needs to be situated, we believe, in the context of what preceded it; namely, the memorandums of understanding that were centrally negotiated between CUPE and the province of Ontario under the shadow of Bill 115. Today, more than 14 months after the province negotiated an agreement with us, they have still not ensured the full implementation of that central agreement.

I'm now going to ask Terri to explain to you the impacts of those actions on our view of Bill 122.

Ms. Terri Preston: Hello. As Fred mentioned, CUPE education workers have supported the concept of central bargaining since 2008. The introduction of Bill 115 seriously eroded our faith in that process. In fact, the last time I spoke at one of these hearings was to speak to you about the impact that bill would have on our members.

Despite the challenge presented by the bill, we managed to negotiate a memorandum of settlement with the government on December 31, 2012. This MOU was ratified by 113 bargaining units covering 67 school boards. Unfortunately, we still have 10 out of 67 school boards that are failing to implement the centrally negotiated language.

Our considerable efforts over the past year to have the government stand behind its signature on our MOU have not met with success, so our members are now asking why they should trust in a central table involving the government again.

The attraction to central bargaining for our members is greater consistency in our working conditions across the province. Because the government continues to permit 10 boards to take an approach to sick leave which is inconsistent with the CUPE MOU, our members remain opposed to legislatively expanding the government's role in central bargaining as provided for in Bill 122.

Mr. Fred Hahn: So let me be clear: If the government were to manage today to finally implement the memorandum of agreement that we signed more than 14

months ago, and all of that was done, there would still be issues that we think would need to change in what is being proposed.

There are components of Bill 122 that reflect Bill 115 and we believe they must be altered in order to demonstrate true respect for free collective bargaining. This includes any inherent power the government would have given itself in the lead up to Bill 115, like unilateral demands that employees and employers must accept government parameters, for example.

I want to highlight five main areas in the bill that would need to be amended in order to fully respect free collective bargaining. There's more detail in the written brief we presented.

In terms of access to a central process, the bill should be amended to ensure that it is not the authority of the crown to either force support staff into a central agreement or to deny them one. The crown should be required to give CUPE support staff workers access to central bargaining if their union so requests it, so long as CUPE represents the majority of its locals comprising the majority of its members in the sector. Where that happens, access to that process should remain through successive rounds of bargaining until CUPE advises the government formally that it would wish to withdraw.

The bill should be amended so that the crown cannot unilaterally impose the term of the collective agreement. The term of a collective agreement should be determined only by the parties to that agreement by means of collective bargaining. That is a basic tenet of free collective bargaining.

The bill should provide that arbitrators or boards of arbitration dealing with disputes on centrally negotiated language would remain seized until their decisions are fully and properly implemented. This would be to prevent having locals or individual school boards needing to re-arbitrate disputes on central language in order to achieve a remedy. That would just be a dual process that no one would want.

The bill should make clear that the crown has all of the same obligations of any other party; in other words, it has the obligation to bargain fairly and in good faith, it should be subject to the unfair labour practices provisions of the Labour Relations Act, and it should be made clear that complaints against the crown, as a party, could be heard at the Ontario Labour Relations Board.

Finally, subsection 4(3), in particular, should just be deleted entirely from the bill. This has to do with related employers and it is, we think, completely unrelated to the establishment of a central bargaining process in the sector. It would hamper our unfettered right to bring labour board subsection 1(4) applications with respect to school boards and that must be respected. Therefore, we're suggesting that this section be removed.

As you've heard, we don't oppose central bargaining as a concept or as a framework, so long as the parties are bound to conduct that bargaining in good faith. We need to be assured that a deal is a deal, and that the parties live up to the collective agreements and the agreements that

they signed. The Ontario government must live up to the commitments it made to CUPE and our members in memorandums more than a year ago.

Finally, even if those memorandums were enforced today, Bill 122 needs to be amended to protect the integrity of free collective bargaining, and we call on all three political parties today to make that happen before the bill goes back to the House for third reading consideration.

Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much for your presentation.

We'll now go to the government members for up to three minutes of questioning. Mr. Balkissoon?

Mr. Bas Balkissoon: Thank you, Mr. Chair. Mr. Hahn, thank you very much for being here. I've noted your comments, and I certainly will pass them on to the minister. I just want to thank you for being here today.

Mr. Fred Hahn: Thank you.

The Chair (Mr. Garfield Dunlop): Okay. Any other questions from the government members?

We'll go to the official opposition. You have up to three minutes.

Mr. Rob Leone: Wow. Okay. Mr. Hahn, I was here when you had your press conference, maybe a couple of months ago now, where you'd stated CUPE's objection to the bill on the basis of what happened with Bill 115. You're here today to say that, should they remedy and live up to the full tenets of the bill, subsequent to the amendments that you're proposing, CUPE would then support the bill? I'm just kind of confused as to where you stand on the piece of legislation.

Mr. Fred Hahn: Our position came directly from our members, who democratically made that decision, and what they told us very clearly was that unless the government lives up to what it bargained more than a year ago, we wouldn't support any process going forward.

Mr. Rob Leone: So, no deal.

Mr. Fred Hahn: But what we're trying to do is also to encourage government to live up to what it has bargained. We appreciate that what this legislation does is propose a structure for the future of a very large group of our members, a very important part of our communities: our schools. And so, to not make comment on what's being proposed, we think, would be irresponsible.

There are real problems that impact directly on the ability of free collective bargaining in what has been proposed in Bill 122, so we wanted to make comment on those particular areas.

Mr. Rob Leone: And your members, as they're involved in the education sector—what positions do they hold in our schools? Just for the committee's—

Mr. Fred Hahn: We're proud to represent all of the support staff in our schools, literally everyone who isn't a teacher, a vice-principal or a principal. We have folks who are custodians, maintenance workers, the school secretaries, the IT staff, all of the folks who work with some of our youngest students, our early childhood educators, some of the folks who work with our students with disabilities, and our education assistants; we have

folks who teach English as a second language—all of the vital support staff that we think are incredibly important to making our schools function.

Mr. Rob Leone: How do you square the to-and-fro that you have—that your members are going to have, simply because they are education workers—with some of the demands, I'll say, that the teachers' federations are putting in place? How do your members square in that whole to-and-fro, where there are limited funds, where there are certain expectations that promises are kept and so on? How do your members deal with what are, in effect, very powerful teachers' federations?

Mr. Fred Hahn: What our members understand inherently from working in our schools is that our students, our kids, in communities succeed because we have teams of people in schools who are focused on making sure that those kids succeed in those communities. From our perspective—

Mr. Rob Leone: So, your focus is student success.

Mr. Fred Hahn: —teachers and support staff think that we can establish that best when we work together as a team. But treating people differentially when they're members of a team isn't right either.

There's a great deal of focus in the media on teachers and schools. That's completely understandable—everyone's had a teacher—but all of us who know about the school system, any of us around this table, surely must understand and acknowledge that schools don't function unless they're clean and safe—

Mr. Rob Leone: Sure.

Mr. Fred Hahn: —that they need an administrative backbone to run, and that our students require additional supports from support staff like EAs and ECEs. Those are our members, and teachers acknowledge that very much.

Mr. Rob Leone: Okay. Thank you, sir.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll go now to the third party.

Ms. Cindy Forster: Thanks so much. Thanks for being here today. I want to zone in on your third recommendation, with respect to boards of arbitration dealing with disputes that are centrally negotiated remaining seized, up until their decisions are fully implemented. I think that kind of flows out of the MOU issue around the sick time.

Now, I don't know why the support staff in the education system—and perhaps the teachers—are being treated differently than, say, nurses in the province or health care workers in hospitals, where boards of arbitration do remain seized until their decisions are fully implemented. Has this been a historical practice?

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Mr. Fred Hahn: Our experience in central bargaining, particularly in the health care sector, is extensive. We represent workers in many hospitals who are engaged in central bargaining with the Ontario Hospital Association, and that process is quite different from what's being articulated here.

But particularly in relation to grievance arbitration on central issues, it doesn't seem to make sense to us, what is proposed in the bill: that an arbitrator would only make a finding and then leave two parties, who have already perhaps been in a disagreement about the interpretation of the language, to find a remedy. That just doesn't make sense, and we believe that it would lead to a dual process wasting both the resources of school boards and the resources of our members.

Ms. Cindy Forster: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): Ms. Sattler.

Ms. Peggy Sattler: Thank you for the presentation. We had some earlier recommendations around the participation of support workers in central bargaining. Your recommendation 1 talks about requests from CUPE to participate. Is it your view that it should be an optional process? Or should there be a mandatory process for central bargaining with support staff?

Mr. Fred Hahn: This is based very much in the culture of our organization. We're an incredibly democratic union. Our members and our locals make decisions, and they instruct us on how to engage. So what we're recommending here is that it should not be left up to an individual minister to decide whether or not people have access. Rather, if workers themselves have democratically decided to instruct us, as their union, to make a request and we make that request, it should be granted.

Ms. Peggy Sattler: Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much. That concludes our presentation. Thank you very much, Mr. Hahn, for your presentation today.

ASSOCIATION FRANCO-ONTARIENNE DES CONSEILS SCOLAIRES CATHOLIQUES

The Chair (Mr. Garfield Dunlop): Mr. Thomas is not here yet from OPSEU. With the indulgence of the committee—we're running a few minutes ahead here. I'm wondering if Mr. Benoit Mercier from the French Catholic school board would be prepared to make his presentation, because he was on the list, but didn't have time to get in today.

Mr. Rob Leone: I'll move it.

The Chair (Mr. Garfield Dunlop): You'll move that?

Interjection.

The Chair (Mr. Garfield Dunlop): Okay, we don't have to move it. So there's agreement that he goes in. We've got time. We're running about 20 minutes ahead. Mr. Mercier?

Mr. Rob Leone: There are two presentations as well.

Mr. Bas Balkissoon: I'm just wondering if we should listen to the people who are scheduled first and then give them a chance—

The Chair (Mr. Garfield Dunlop): Well, they're right on schedule here. Mr. Thomas is coming in.

Mr. Bas Balkissoon: No, but are the 2:30 and the 2:45 here? Because if they're here, we should listen to them.

The Chair (Mr. Garfield Dunlop): I think it's my prerogative to go. We've got 20 minutes here and I want Mr. Thomas to go in here. He'll get here. We'll have lots of time, I think, and even time for your debate.

Mr. Mercier, please go ahead. You have five minutes.

M. Benoit Mercier: Merci beaucoup, monsieur le Président. Je remercie le comité de nous donner l'occasion de venir vous parler aujourd'hui. Comme de fait, j'étais un petit peu en retard pour soumettre le nom de l'AFOCSC pour venir faire une présentation à ce comité et donc j'apprécie beaucoup le fait que vous nous donniez l'occasion de nous présenter aujourd'hui.

L'Association franco-ontarienne des conseils scolaires catholiques représente huit conseils scolaires catholiques de langue française en province et environ 80 conseillères et conseillers scolaires élus, et le mémoire que nous vous présentons aujourd'hui est vraiment le fruit d'une grande collaboration entre nos conseils membres.

En principe, l'AFOCSC est en accord avec le projet de loi en autant que votre comité, vous pouvez étudier nos recommandations et les adopter.

Principalement, vous avez entendu aujourd'hui ce que les autres associations d'employeurs vous ont communiqué. Nous sommes grandement en accord avec ces principes-là, mais en tant qu'AFOCSC, j'aimerais vous attirer vers quelques recommandations que nous vous proposons.

La section 13(2) : comme vous l'avez très bien entendu, nous croyons que la Couronne doit faire partie du processus des négociations et doit être sujette aux mêmes conditions que les associations et les syndicats, c'est-à-dire de négocier de bonne foi et de participer pleinement au processus.

La recommandation numéro 4 fait référence à l'article 21(6). Comprenant très bien que l'AFOCSC et nos collègues de l'Association des conseils scolaires des écoles publiques de l'Ontario, nous négocions avec un syndicat d'enseignants, notre position est que l'AFOCSC devrait avoir sa propre table centrale pour négocier les termes et conditions d'emploi de ses employés.

Notre argument est basé sur le fait qu'en 1867, lorsque le Canada a été créé—plusieurs constitutionnalistes et plusieurs historiens vous diront que si le Canada existe aujourd'hui, en grande partie c'est à cause des droits des minorités. Encore aujourd'hui, une des valeurs fondamentales du Canada est de respecter les minorités qui existent. Donc, même avant 1867, la Loi Scott de 1863 accordait aux catholiques de langue française de gérer leurs propres écoles, et donc, au niveau de la gouvernance, de s'occuper de leurs affaires pour des francophones catholiques par des francophones catholiques. Donc, notre revendication c'est effectivement à ce que l'AFOCSC puisse avoir sa propre table centrale de négociation.

Les deux autres éléments dont j'aimerais vous faire mention aujourd'hui, c'est en lien avec les articles 25 et

26 au niveau des droits constitutionnels et des droits linguistiques. Si l'AFOCSC croit qu'il pourrait y avoir atteinte aux droits confessionnels lors de la négociation, l'AFOCSC a le droit d'indiquer cela, et s'il n'y a pas entente entre les parties, l'AFOCSC pourrait soumettre le litige à la Commission des relations de travail de l'Ontario.

Nous reconnaissons très bien que ce sont des juristes qui participent à la commission. Nous croyons très bien qu'ils auront accès à toute l'information nécessaire pour pouvoir rendre une décision sur un litige potentiel. Notre recommandation à ce moment-ci est que ces personnes-là puissent avoir de la formation au niveau des droits constitutionnels et au niveau des droits linguistiques, parce qu'il y a déjà beaucoup de jurisprudence qui existe, et c'est de faire certain que ces personnes-là puissent avoir accès à l'information pour prendre des décisions.

Alors, monsieur le Président, je termine ma présentation là-dessus.

The Chair (Mr. Garfield Dunlop): Thank you very much. Merci. I will now go to the official opposition. You've got up to three minutes.

Mr. Rob Leone: Thank you very much. Merci beaucoup. I'm going to ask my question in English. I want just a clarification, if you may. I'm not really sure; are you from the AEFO?

Mr. Benoit Mercier: No. I'm from the school boards' association.

Mr. Rob Leone: School boards' association. Because I see Carol behind you, so I wasn't really sure where that was coming from.

Mr. Benoit Mercier: I used to be.

Mr. Rob Leone: There has been a lot of debate, and I appreciate the fact that we were able to squeeze you in today, and I feel that we should have opened up the process a bit more to have consideration from parties like yourself who thought it was important to make a presentation to this committee before. I appreciate the fact that this may be a little bit direct, but to what extent do your members who are from different parts of the province—do they actually know what we're talking about here in this bill?

Mr. Benoit Mercier: Yes. We have been keeping our members informed through our board of directors.

Mr. Rob Leone: Has there been a debate or has there been discussion in terms of the kinds of recommendations you've made today?

Mr. Benoit Mercier: Absolutely. Our boards have been completely involved in the process. The brief that you have before you is the fruit of a big collaboration between the French-language Catholic school boards across the province.

Mr. Rob Leone: So you sat around and debated these issues and you came up with these recommendations?

Mr. Benoit Mercier: Yes. There was a first draft that was written and was sent out for validation, a second draft and a third draft, and this is the final.

Mr. Rob Leone: So there was a process involved.

Mr. Benoit Mercier: Yes.

Mr. Rob Leone: And generally speaking, were your members satisfied with what you've seen with this bill?

Mr. Benoit Mercier: Generally, I would say yes.

Mr. Rob Leone: Whether or not there were amendments that you've recommended?

Mr. Benoit Mercier: Sorry?

Mr. Rob Leone: I know you have recommended some changes, but in general, they're supportive?

Mr. Benoit Mercier: In general, they're supportive through the fact that in the last round of bargaining, the school board associations and the school boards have been left aside during the negotiation process. We feel that the process that is put forward greatly enhances a framework with which we will know what our roles and responsibilities will be. For that reason only, it is great progress.

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Mr. Rob Leone: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much to the official opposition.

To the third party, you have three minutes.

Ms. Cindy Forster: Thanks for your presentation. Can you expand a little bit more on the linguistic and constitutional piece—one I couldn't hear very well out of my earpiece? I'm wondering whether it's consistent with the position that the last presenter made a few minutes ago.

Mr. Benoit Mercier: With respect to my colleague from the French public school boards' association?

Ms. Cindy Forster: Correct.

Mr. Benoit Mercier: We differ in our opinion at this point. We feel that we should have a right to have a central table to negotiate terms and conditions with employees who are working in the eight French Catholic school boards. Our argument is based on historical facts, article 93 of the Constitution, and section 23, as well, of the Charter of Rights and Freedoms.

This goes back even pre-Confederation. We feel that if Canada exists today, it's because our founding fathers decided that minority rights were very important and that to protect the French Catholic system outside of Quebec and the English Protestant system in Quebec, that certain components needed to be put into law to respect those rights. So we're basing our arguments on that.

Ms. Cindy Forster: They also address the issue of funding for translation in the collective bargaining process. Can you speak a little bit about that?

Mr. Benoit Mercier: We're completely in agreement with that. We negotiated with our employees who work in the French Catholic system, so we feel that negotiations need to be happening in French, and that if there's ever any translations, they be done promptly and that both languages have equal weight.

Ms. Cindy Forster: So that the boards are actually having to use funds that should be used for education of students and end up having to use it for translation services or—

Mr. Benoit Mercier: Our hope is that the government will pick up that tab.

Ms. Cindy Forster: Right. Okay. Thank you.

The Chair (Mr. Garfield Dunlop): No further questions? Thank you very much to the third party.

Now to the government members, Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you, Mr. Chair. Sorry about my French, but I'll ask my question in English. I hope it helps. I just had difficulty understanding what you were saying versus the previous speaker. Are you prepared to work together, or are you not? Are you looking for your own separate negotiation?

Mr. Benoit Mercier: We have demonstrated over a number of years that we are able to work together. There are processes in place, and we are having discussions at this point to make sure that we're aligned going forward, if the bill passes as it is. I'm here today to speak on behalf of my membership who feel that they have a right to have their own central table to discuss and negotiate terms and conditions of their employees.

Mr. Bas Balkissoon: Can you describe what took place in the previous set of negotiations? Did you work together or did you work independently?

Mr. Benoit Mercier: This is my second year in my current position. What I recall happening, as I was on the other side of the table at that time, is that the two French-language board trustee associations worked collaboratively together. They sat at the table together. They discussed issues together, and they put forward items together to negotiate.

Mr. Bas Balkissoon: Okay. Mr. Chair, thank you very much. I clearly understand what the gentleman has said. Thanks for being here today.

The Chair (Mr. Garfield Dunlop): Thank you very much, Benoit, for your presentation today.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair (Mr. Garfield Dunlop): Our next presenter is the Ontario Public Service Employees Union: Warren "Smokey" Thomas. Thank you very much for being here, Mr. Thomas, and welcome to Queen's Park. You have five minutes for your presentation.

Mr. Warren Thomas: All right. Give me 10, Garfield.

I have Anastasios Zafiriadis with me. He's our negotiator around our staff, for technical questions.

OPSEU is proud to speak on behalf of the 2,600 education support staff members we represent in several school boards throughout the province of Ontario.

OPSEU broadly supports the measures taken by Bill 122, or the Schools Boards Collective Bargaining Act, to formalize the central bargaining process in Ontario's schools.

As a participant in the provincial discussion tables in 2008 and 2012 as a member of the collaborative education support staff (CESS) unions, OPSEU feels that the PDTs were an important and valuable process and the precursor to the central bargaining process.

Central bargaining is a valuable process that will unify and strengthen Ontario's education sector by rationalizing the collective bargaining process and establishing industry standards that will improve working conditions for the invaluable employees working in this sector.

OPSEU's support for Bill 122 is not without reservation. In its current form, Bill 122 restricts access to central bargaining for educational support staff to bargaining agents who represent a minimum of 15 bargaining units. OPSEU does not object to this and recognizes that sensible restrictions on central bargaining are necessary.

OPSEU further acknowledges that Bill 122 will allow ETFO, OSSTF and CUPE to form central tables, as these organizations each represent at least 15 bargaining units and a majority of the education support workers in the education sector.

However, OPSEU submits that it is paramount that the committee recognize the central bargaining rights of the approximately 45 bargaining units, comprising some 15,000 education support staff, represented by OPSEU and several other unions.

OPSEU firmly believes that all unions with bargaining rights in the education sector should have access to central bargaining. However, OPSEU is concerned that, in its current form, Bill 122 will allow any union that represents at least 15 bargaining units in the education sector a central table. It is OPSEU's position that this is entirely unnecessary and would only serve to waste resources and fragment the collective bargaining process.

OPSEU recommends that the Minister of Education and the government make it clear in Bill 122 that the collaborative education support staff unions be required to form a central table that is open to all unions not affiliated with ETFO, OSSTF and CUPE, representing support staff in the education sector. Bill 122 should designate this "council of unions" as the employee bargaining agency for its constituent unions.

Since the spring of 2013, OPSEU has been working closely with several other unions representing education support staff to form a council of unions. At this time, OPSEU is proud to speak on behalf of these unions and the approximately 8,000 education support staff that we represent.

OPSEU is confident that a council of unions representing a significant number of education support staff would be a viable and effective bargaining agent fully committed to participation in central bargaining. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much for your presentation.

We'll now go to the NDP. You have three minutes for your questions.

Ms. Cindy Forster: Thanks for being here today. What I'm hearing is that there are 15,000 employees who belong to a number of different unions, but they don't make up 15 each.

Mr. Warren Thomas: No.

Ms. Cindy Forster: So what you're suggesting is that there be a central table made up of a number of unions to participate in the central part.

Mr. Warren Thomas: We could meet the threshold if we were allowed to form a council and then bargain with the council.

Ms. Cindy Forster: Right, and that would give 15,000 workers around the province a voice.

Mr. Warren Thomas: About 8,000 right now have agreed to the process in a variety of smaller unions.

Ms. Cindy Forster: Okay. Were there any other parts of Bill 122 that you wanted to speak to today?

Mr. Warren Thomas: No, we're pretty good with it, actually.

Ms. Cindy Forster: You're pretty good with that?

Mr. Warren Thomas: It almost pains me to say.

Ms. Cindy Forster: Do you have anything, Taras?

Mr. Taras Natyshak: No.

Ms. Cindy Forster: Okay. That's it. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much, third party.

We'll now go to the government members for questions: Mr. Balkissoon.

Mr. Bas Balkissoon: Thank you, Mr. Robinson, for being here.

Mr. Warren Thomas: That's Mr. Thomas.

Mr. Bas Balkissoon: Mr. Thomas. What am I saying?

Mr. Warren Thomas: I'm not near as good-looking as him, and I can't sing.

Mr. Bas Balkissoon: I just want to make sure I hear you clearly: So you're in agreement with the bill, but your main concern is to make sure that those with less than 15—if they combine with others and they have a working agreement, they be recognized to be part of the central process?

Mr. Warren Thomas: Yes. Anastasios has been working with some other smaller unions and we have agreement that represents about 8,000 people. The government could say those unions form a council and go bargaining as a group, and I think it would work. It would save everybody a fair bit of money, and everybody would sort of be treated equally across the province.

Mr. Bas Balkissoon: I hear you. Thank you very much. Other than that particular issue, do you see the bill as a positive process in terms of rectifying some of the problems of the past?

Mr. Warren Thomas: Yes, absolutely.

Mr. Bas Balkissoon: And you would be very supportive that we do this process here at committee and send it on to the Legislature as quickly as possible.

Mr. Warren Thomas: As long as you give us what we want.

Mr. Bas Balkissoon: Thank you very much, and thank you for taking the time to be here.

The Chair (Mr. Garfield Dunlop): We'll now go to the official opposition for questions.

Mr. Rob Leone: Mr. Thomas, thank you for your presentation. I just want to make a point of clarification for what you're presenting today. You're suggesting that there should be a council of unions basically to negotiate on a certain subset of issues or of all the issues?

Mr. Warren Thomas: A central table, all issues.

Mr. Rob Leone: A central table.

Mr. Warren Thomas: We recognize that CUPE, OSSTF and ETFO have enough to be on their own. They have more than enough to qualify for the central table. What we're asking is, allow the smaller unions to form a council, if you will, and then you'd bargain with the council and the council would represent all those smaller unions. There's a big degree of co-operation right now, so we have concurrence on groups that represent about 8,000 people. We think if you made the council for the rest, we could make it work.

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Mr. Rob Leone: And would you be bargaining with each of the four parties as outlined in the—

Mr. Warren Thomas: No, we'd be bargaining—

Mr. Rob Leone: —or would you be bargaining with the government?

Mr. Warren Thomas: My understanding is they'll bargain separate and we'll bargain separate.

Is that not right? Go ahead.

Mr. Anastasios Zafiriadis: What we'd like is one support table.

Mr. Rob Leone: A support table?

Mr. Anastasios Zafiriadis: A support table for all the unions. As Smokey said in his presentation, everybody would have the ability to enter into that council, whereas if you had smaller groups, it would just be—

Mr. Rob Leone: Be absorbed, basically?

Mr. Anastasios Zafiriadis: Well, you'd be spending excess money on various tables, as opposed to one table. We did the PDT with the group that we're trying to get together at one table, so we'd just prefer one central table for the support groups.

Mr. Warren Thomas: Take a look at what we do with the OHA in health care; like, we have a central table, but you bargain local issues. It would be quite similar.

Mr. Anastasios Zafiriadis: And we've been in consultation with the ministry with respect to the process. As Smokey said, we have the same setup in our hospital—where we have a central table that deals with issues and then local tables which deal with specific local issues.

Mr. Rob Leone: And could you clarify for me who your members are in terms of what roles they play in the education system?

Mr. Anastasios Zafiriadis: We have educational assistants, early childhood education, office, clerical. We have a whole bunch within OPSEU's bargaining units.

Mr. Rob Leone: Right. And how many members do you personally—OPSEU has—

Mr. Anastasios Zafiriadis: Approximately 2,600 or 2,700.

Mr. Rob Leone: Okay. That's all the questions I have, Mr. Chair.

The Chair (Mr. Garfield Dunlop): Thank you very much for your presentation this afternoon.

ASSOCIATION DES ENSEIGNANTES
ET DES ENSEIGNANTS
FRANCO-ONTARIENS

The Chair (Mr. Garfield Dunlop): Our next presenters are Carol Jolin, president, and Pierre Léonard, general secretary, l'AEFO. Thank you very much for being at Queen's Park today. You have five minutes for your presentation and questions and answers after.

M. Carol Jolin: Alors, monsieur le Président Dunlop, membres du comité, bonjour. Je m'appelle Carol Jolin. Je suis le président de l'Association des enseignantes et des enseignants franco-ontariens. Au nom de l'AEFO, je tiens à vous remercier de prendre quelques minutes aujourd'hui pour m'entendre sur le dossier qui nous intéresse, le projet de loi 122.

Je suis ici pour réitérer une modification particulièrement qui semble avoir été bien reçue par le gouvernement lors des consultations auxquelles nous avons participé. Nous espérons que les partis politiques coopèrent pour adopter un projet de loi modifié qui est nécessaire, voire essentiel, à la modernisation et à la négociation collective dans le secteur de l'éducation.

Avant de préciser la recommandation, permettez-moi de vous rappeler qui nous sommes. L'Association des enseignantes et des enseignants franco-ontariens est un syndicat qui compte environ 10 000 membres et qui représente les enseignants et les enseignantes des écoles élémentaires et secondaires de langue française de l'Ontario, tant catholiques que publiques, en plus du personnel professionnel et de soutien oeuvrant dans différents lieux de travail francophones.

Bien que l'AEFO soit d'accord avec l'orientation et la vision du projet de loi concernant la négociation collective dans le système scolaire, nous proposons 10 recommandations qui visent à rendre le projet de loi encore plus efficace pour les intervenantes et les intervenants impliqués dans la négo. Le mémoire que je vous invite à lire vous donnera des précisions sur ces 10 recommandations, mais à des fins d'efficacité, je vais miser aujourd'hui sur une d'entre elles qui, à mon avis, est la plus déterminante pour le secteur francophone afin d'assurer un processus de négociation clair et efficace pour toutes et tous.

La recommandation la plus importante pour l'AEFO est la suivante : la mise en place d'une seule table de négociation pour le secteur francophone. Je m'explique. Dans les faits, le projet de loi 122 propose que l'AEFO négocie deux fois, d'une part avec l'Association des conseils scolaires des écoles publiques de l'Ontario, l'ACÉPO, et d'autre part, avec l'Association franco-ontarienne des conseils scolaires catholiques, l'AFOCSC. Il s'agit donc d'un dédoublement de travail. Une seule table centrale pour le secteur francophone simplifierait le processus. La négociation serait plus efficace pour l'AEFO, pour les conseils scolaires et pour le gouvernement.

L'AEFO a proposé des amendements au projet de loi 122 qui ont été développés conjointement avec les

associations de conseils scolaires catholiques et publiques, l'AFOCSC et l'ACÉPO, lesquels se retrouvent dans notre mémoire à la recommandation 6.

Les amendements portent spécifiquement sur la question d'une table centrale de négociation pour le secteur francophone. Actuellement, le projet de loi 122 impose deux tables centrales, mais qui peuvent être combinées à la discrétion de la ministre de l'Éducation en place au moment de la négociation. Dans les faits, ça signifie que le secteur francophone doit attendre une décision ministérielle avant d'entamer la négociation, et ce, contrairement à nos collègues du côté anglophone.

Nous croyons qu'une telle approche nuirait au bon fonctionnement du processus de négociation pour le secteur francophone et fait preuve d'iniquité envers les francophones. Nos amendements sont fondés sur la présomption que la négociation dans le secteur francophone demeure avec une table centrale, plutôt que l'inverse. Aussi, nos amendements respectent les droits et les privilèges confessionnels des conseils scolaires catholiques.

Nous demandons que le comité se penche sérieusement sur notre proposition, et ce, dans l'esprit d'équité pour les francophones et de l'efficacité du processus de négociation pour les quatre parties, soit le gouvernement, l'AFOCSC, l'ACÉPO et l'AEFO.

Donc, ça termine ma présentation, monsieur Dunlop.

The Chair (Mr. Garfield Dunlop): Thank you very much. Merci.

Okay. The line of questioning will begin with three minutes from the government members first. Mr. Balkissoon?

Mr. Bas Balkissoon: Thank you, Mr. Chair. I just want to say thank you very much, and thank you for your input. I've heard clearly that you're looking for a single table, and I'll take that back to the minister.

M. Carol Jolin: Merci.

The Chair (Mr. Garfield Dunlop): Any further questions? Ms. Mangat?

Mrs. Amrit Mangat: Thank you, Chair. I know you prefer one single French bargaining table. Can you shed some light on what would be the benefits of that?

M. Carol Jolin: The first one would probably be—je vais y aller en français; ça va être un peu plus facile.

Toute l'implication qui est autour de la négociation, à négocier en deux tables, c'est qu'on est en train de doubler le travail qui doit se faire : question de temps, d'énergie et de pouvoir. Également, dans le projet de loi on parle de négocier les items qui vont être à la table centrale. En ayant deux tables, ça ne veut pas dire que ce serait nécessairement les mêmes items qui se retrouveraient à la table centrale. Donc, ça aussi aurait un autre impact sur tout le processus de négociation et ça risquerait de faire durer très longtemps le processus de négociation parce que, justement, les ressources qu'on a, il faudrait véritablement les séparer entre deux tables, et c'est la même chose pour le gouvernement.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Garfield Dunlop): No further questions? Thank you very much to the government members. To the official opposition: You have three minutes.

Mr. Rob Leone: Carol, thank you for your presentation. Is your recommendation number 6 the major recommendation that you're trying to make, in terms of combining the two tables?

M. Carol Jolin: Pour les francophones elle était extrêmement importante. Je partage les recommandations qui ont été soumises par mes collègues des autres filiales, mais pour nous autres, pour les francophones, celle-là est très importante à cause de tout le travail qu'elle va nécessiter si on se retrouvait dans l'alternative, c'est-à-dire deux tables de négociation.

Mr. Rob Leone: And is the purpose for saying that mainly about pooling money together and saving money through the process, instead of having two sets of lawyers? Is that the main reason for it?

M. Carol Jolin: Ce n'est pas simplement une question d'argent; c'est une question d'efficacité également. Et pour le gouvernement, aussi, d'amener des gens à la table, c'est du temps, c'est de l'énergie et, évidemment, c'est de l'argent aussi. Quand on sait ce que les avocats coûtent aujourd'hui, c'est peut-être une petite chose aussi qui entre en ligne de compte. Mais c'est principalement les facteurs de temps et d'efficacité. On sait comment une négociation, des fois, peut prendre du temps, et à ce moment-là on risque de s'étendre de façon exponentielle.

Mr. Rob Leone: So this will in essence save time, do you think?

M. Carol Jolin: Pardon?

Mr. Rob Leone: This will save time by combining the two?

M. Carol Jolin: Exactement. Si on a une table de négociation, toute l'énergie qu'on va investir de notre organisation va être sur cette table-là.

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Mr. Rob Leone: Thank you. Merci beaucoup.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to the third party. You have three minutes.

Ms. Cindy Forster: Thanks for being here. I just want some clarity. You talk about a single table for both the public and the Catholic francophone systems. Would you be coming to some kind of conclusion and putting forward similar issues, or would you each have your own issues that you would be putting forward at the central table?

M. Carol Jolin: Bien, si je me réfère à ce qui a déjà fonctionné lors des tables centrales qu'on a eues dans le passé, il y a eu des négociations conjointes, et les négociations ont permis d'en arriver à des ententes avec des ententes collectives. Alors, je ne vois pas pourquoi, dans un processus qui est légiféré, on ne pourrait pas faire la même chose.

Ms. Cindy Forster: Okay. So are you looking to try to develop the same rights and equity for employees in both the public and the Catholic?

M. Carol Jolin: Nos conventions collectives sont les mêmes pour les deux associations de conseils scolaires. Donc, pour nos membres qui travaillent du côté catholique et du côté public, ce qui a été négocié à la table centrale est dans toutes les conventions. Pour ce qui est de la négociation locale, c'est une autre chose. Chaque unité négociait localement.

Ms. Cindy Forster: Thank you.

M. Taras Natyshak: Merci, monsieur Jolin, pour votre présentation ici. On voit que vous avez à nous parler de 10 recommandations, mais vous avez seulement eu la chance de parler d'une recommandation. Je voulais savoir si vous voulez parler d'une autre ou peut-être d'une autre priorité pour votre association?

M. Carol Jolin: Bien, la deuxième priorité, avec un petit peu plus de temps, c'était qu'on recommande qu'il soit explicite que la participation de la Couronne à la négociation de la table centrale soit à titre de partie à part entière—mes collègues l'ont soulevé déjà—assujettie aux mêmes droits et obligations que les autres parties à la table centrale, soit l'obligation de négocier de bonne foi et de ne pas commettre de pratiques déloyales, telles que définies par la Loi de 1995 sur les relations de travail. C'est le deuxième point qui nous tient particulièrement à cœur.

M. Taras Natyshak: Combien de temps est-ce qu'on a?

The Chair (Mr. Garfield Dunlop): You have another minute.

M. Taras Natyshak: Avez-vous des « concerns » sur le système d'arbitrage de griefs?

M. Carol Jolin: C'était mon troisième point, merci.

M. Taras Natyshak: Voilà. Vous avez 45 secondes.

M. Carol Jolin: Nous recommandons que le redressement découlant de l'arbitrage des griefs des conditions qui sont négociées centralement puisse aller au-delà de l'obtention d'une déclaration d'interprétation d'une disposition négociée centralement et inclure l'autorité d'accorder toute réparation jugée appropriée par l'arbitre. Ça, c'est pour éviter qu'on ait une interprétation à la table centrale et qu'on soit obligé d'aller par le processus de griefs sans tenir compte de ce qui a été jugé à la table centrale. Ça, c'est extrêmement important. On parle de toute l'implication du travail que ça nécessite de faire tout le travail en double ou de se retrouver avec le même grief dans douze unités. Donc, c'est un point qui est également très important pour nous autres.

M. Taras Natyshak: Excellent. Je vous remercie pour votre présentation.

The Chair (Mr. Garfield Dunlop): Thank you very much for your presentation this afternoon.

M. Carol Jolin: Merci.

The Chair (Mr. Garfield Dunlop): Ladies and gentlemen, or the committee members, our next presenter is by teleconference at exactly 2:45. We have a motion moved by Mr. Balkissoon, and I'm open to debate that up until 2:45. Then we'll be either voting on it or we'll be moving it to next week, but at 2:45, we'll be listening to the On-

tario Secondary School Teachers' Federation, district 9, via teleconference.

Mr. Balkissoon, if you'd like to start explaining your motion.

Mr. Bas Balkissoon: Thank you, Mr. Chair. I'll be very short. We've attempted to deal with this bill over the recess for the Christmas holidays. I think it was delayed until last week, when we had our first meeting. You have heard from many of the deputants who are key stakeholders in this particular piece of legislation. When I say key stakeholders, they're stakeholders in the bargaining process. They were here, and you've heard many of them are generally supportive of the bill, if we do some amendments, and I suspect my colleagues in the opposition and ourselves will be submitting those amendments.

What I'd like to do in this motion is actually accelerate the process, that it comes back to the Legislature. We meet next week on Wednesday, and then we're off the following week. So rather than waste that time, I'm asking that we meet two days during that week to deal with the items as we agreed at subcommittee. It's just putting a specific date to get it done. That way, the legislation can go back to the House for final debate and hopefully approval and become law. The bargaining process needs to start as early as possible, because most of these agreements expire later this year.

The Chair (Mr. Garfield Dunlop): So you're actually asking for additional time for clause-by-clause. Basically—

Mr. Bas Balkissoon: No, I'm asking to set the dates for the clause-by-clause. In my motion, I—

Interjections.

The Chair (Mr. Garfield Dunlop): Okay. The way we stand today, we have next week at 3 o'clock for clause-by-clause—sorry, at 12 to 3 next week, and then two weeks after, 12 to 3.

Mr. Bas Balkissoon: Right.

The Chair (Mr. Garfield Dunlop): Okay. And you're saying adding these two additional days in there—basically a full day—

Mr. Bas Balkissoon: Just in case we can't get it done, I'd like to—and if we get it done, then it goes to the House.

The Chair (Mr. Garfield Dunlop): And you're asking the House leaders for permission to do that.

Mr. Bas Balkissoon: To meet on those two days to get the clause-by-clause done.

The Chair (Mr. Garfield Dunlop): Okay. So I'm opening it up to debate, up until 2:45. Any comments on that?

Mr. Rob Leone: I just want a point of clarification. I'm very confused, given the fact that we are scheduled for two days of clause-by-clause. We're meeting next week, I believe, and then we have two additional meetings for clause-by-clause. So are we actually having three days of clause-by-clause? Is that what this is suggesting?

Mr. Garfield Dunlop: This would add two full days to the six hours we have planned.

Mr. Rob Leone: So in essence, the government is admitting that in rushing to get this thing to committee—instead of just doing clause-by-clause next Wednesday, which is March 5, from 12 to 3, they also, in addition to that, think we don't have enough time now. They're going to add time to meet from 9 to noon and 1 to 5 on Tuesday, March 11, and Wednesday, March 12. Is that what they're saying?

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Rob Leone: So they're admitting that they don't have enough time to go through this bill.

The Chair (Mr. Garfield Dunlop): We will have another 14 hours—I look at it as another 14 hours of debate here. Right? Sorry, 14 hours of clause-by-clause.

Mr. Bas Balkissoon: Mr. Chair, no. I'm just saying, we're meeting next week for clause-by-clause. We had previously agreed to two days for clause-by-clause. In addition to next Wednesday, my request with this motion is to designate two days during the break to complete the job, so that when the House comes back the following week, we are completed with our work and the legislation is back before the Legislature. If we finish in one day during the break, that's fine.

The Chair (Mr. Garfield Dunlop): Okay. I just want to make sure that everybody's clear on this.

Mr. Rob Leone: I'm not clear.

The Chair (Mr. Garfield Dunlop): Right now, we have six hours designated for clause-by-clause: three hours next week and three hours two weeks after that, on the Wednesday, 12 to 3, and we have to finish clause-by-clause in those six hours, the way it stands right now. What you're doing is you're adding another seven hours on March 11 and seven hours on March 12.

Mr. Bas Balkissoon: If needed.

The Chair (Mr. Garfield Dunlop): If needed. Of course, yes.

I'm going to ask you to clarify this, because I want to make sure we're clear on this.

The Clerk of the Committee (Mr. Trevor Day): The committee set out for itself, in a previous motion, that it would do clause-by-clause next Wednesday and the Wednesday after constit week. That is committee-imposed-on-itself scheduling. It's not from the House, so you don't have to finish at that time. It's not a must. It's not that the bill will be deemed back. That's when something comes from the House that says you only have that many days. This is the committee doing its own internal scheduling as to when it will take up this business.

The Chair (Mr. Garfield Dunlop): Yes, go ahead.

Ms. Cindy Forster: Can I just get some clarity? We have six hours booked when? Next Wednesday?

The Chair (Mr. Garfield Dunlop): Next week from 12 to 3.

Ms. Cindy Forster: So we have three hours booked.

The Chair (Mr. Garfield Dunlop): Three hours booked next week and three hours two weeks after that.

Ms. Cindy Forster: So that's March 4, is it?

The Chair (Mr. Garfield Dunlop): The 19th, yes.

Ms. Cindy Forster: The 4th and the 19th.

The Chair (Mr. Garfield Dunlop): Yes.

Ms. Cindy Forster: Okay.

The Chair (Mr. Garfield Dunlop): That's what we have booked right now and planned on Bill 122, and this is adding two days in the consti week.

Mr. Bas Balkissoon: So we would finish earlier.

The Chair (Mr. Garfield Dunlop): Do I have any more comments on it? Mr. Leone.

Mr. Rob Leone: I have a lot of comments, Chair. I think my colleagues who were here last week were very disturbed that we weren't able to have further deliberations on this particular piece of legislation. I think one thing that has come out of today's hearings so far has been the very need to expand the investigation and the deputations to this committee. I'm not sure what the motivation is by this motion other than to say that maybe—well, they haven't admitted that they're wrong, but I think that they have clearly shown that they might just be that, and that two days of clause-by-clause might not be enough to get through all of the potential problems that might exist with this bill. Certainly, we've heard from a number of delegations that there are parts of this legislation that need to be amended. We've heard from a couple of delegations who simply do not support the legislation as is.

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So my perspective, Chair, is that we go beyond simply authorizing the committee to meet during the intersession of our break week to include further public hearings. I think that our position has been pretty clear on this, that we need to hear the voices of people not just in this particular area, in Toronto, but we need to hear and provide an invitation for other people across the province to come and make those deputations.

Now I do not believe we're able to request that. We can have further deputations—are we? We are able to?

So, Mr. Chair, I would move an amendment that rather than meeting on March 11 and March 12 for the purpose of clause-by-clause, we meet on Wednesday, March 5, for the purpose of public hearings, on Wednesday, March 12, for the purpose of public hearings and that clause-by-clause resumes on March 19, 2014.

The Chair (Mr. Garfield Dunlop): Okay. So we've got an amendment here to your motion, that we meet next Wednesday, March 5, for continued public hearings, and on March 12 for public hearings—I'm not sure of the timing you have involved in that—and then clause-by-clause would start on March 19. That's an amendment to your motion, Mr. Balkissoon.

Mr. Bas Balkissoon: Mr. Chair, I would actually rule on that amendment because I believe this committee has dealt with similar requests to have additional public hearings and a decision was made. I think we also discussed back at that time that those who could not make public deputations still have the opportunity to make written submissions to the committee before clause-by-clause and that the committee would take their submissions into consideration.

I know what my colleague is trying to do, but I would ask you to rule because I think we have decided on that particular request.

The Chair (Mr. Garfield Dunlop): Mr. Balkissoon, the committee agreed on both clause-by-clause and on committee hearings.

Mr. Bas Balkissoon: That's right.

The Chair (Mr. Garfield Dunlop): His amendment is in order because you're changing it, as well, by changing the amount of clause-by-clause.

Mr. Bas Balkissoon: Just the clause-by-clause, yes.

The Chair (Mr. Garfield Dunlop): Okay. So I want to just make sure we have the debate on this, and if we don't finish it by 2:45, we're going to start debating it again next week.

Mr. Bas Balkissoon: Well, I would state that my position is, I would have difficulty supporting that because I believe those who have not indicated they want to make deputations still have the opportunity up until next Monday to have their written submissions to us—

The Chair (Mr. Garfield Dunlop): A written submission, yes.

Mr. Bas Balkissoon: A written submission to us that can be considered—

The Chair (Mr. Garfield Dunlop): I'm sorry. We clarified this again, Mr. Balkissoon. I want to make sure we're clear on this.

Mr. Bas Balkissoon: Mr. Chair, just to get it on the record: I say that because this bill is about collective bargaining, and the stakeholders that are involved in collective bargaining have made their presentations today. I have difficulty understanding where we're going to get the additional deputants—that are related to this bill and involves them.

The Chair (Mr. Garfield Dunlop): Okay. The written submission deadline is 3 o'clock today, not next week.

Mr. Bas Balkissoon: Okay, but they can still do it.

The Chair (Mr. Garfield Dunlop): They can do it up till 3 o'clock today, yes. But we're sort of changing everything here right now, so I want to make sure—any further comments here? Mr. Leone.

Mr. Rob Leone: I certainly have. I'm very concerned when I hear comments from the parliamentary assistant to education that suggest that parents may not want to have a say on the direction or future direction of the education system. I fundamentally believe that our objective and our role as legislators is to make sure that student success is paramount, that it becomes the priority by which we guide ourselves. I would hate to embark on a major piece of legislation, such as this, a "landmark" bill that you have presented to us, without further debate, without deliberate public consultation that delves into the issues that we've explored.

Now, I know there was a presentation today by the Catholic trustees' association that states that when parents are involved in the discussions about education, the system is better. I fundamentally object to any notion that we would limit that debate to any degree.

This is an important piece of legislation. I think the discussions that we've had today were very helpful. I think the questions and the comments presented by members on this committee have been very appropriate in terms of getting some further insight into the different permutations and combinations and the different issues that arise from the delegations.

I'm concerned when we have a delegation that came to us from two trustees, one from the Toronto Catholic District School Board and one from the Toronto District School Board, who have suggested that their consultation has been completely shut out and that we require, I think, further investigation in terms of what they're saying.

We had in this process an opportunity to publicly advertise for submissions to this committee. The reality is that each and every slot that was allotted was already filled before that advertisement even went out the door. I have serious concerns that we are shutting out debate and that, in fact, the parties here are colluding to get their way on Bill 122.

I think that these discussions have to be out in the open, that we have to be very up front about where we stand. I think the representations that people can make—I don't know who's going to come forward. I don't have a crystal ball on whether any organization will take us up on the offer. But the reality is, I think we have an obligation, as members of the Legislative Assembly committee, to open the door, to talk to people who might be interested in presenting to this committee, because their perspective might enlighten us on how to improve this legislation.

I'm very concerned that the government has done all of this behind closed doors, in consultations with their "partners of education," where, frankly, everybody else was shut out. We don't know what was going on. And despite having months of negotiation on this particular piece of legislation, we've had delegation after delegation after delegation asking for and recommending changes and amendments to this piece of legislation.

If anything should speak to the value of further public consultation on this particular piece of legislation, it's the simple fact that there are issues with this legislation. It's a simple fact that this is a very important piece of legislation that purports to govern how education negotiations take place in the future, and that in itself is the primary motivation for us to expand the scope of this committee.

I'm not going to be a party to trying to ram this legislation through. I'm not going to be a party to any potential collusion that might be taking place here with respect to this piece of legislation. My obligation as a member of provincial Parliament is to represent my constituents. My obligation as the critic for education for the official opposition is to solicit information from different parties, and that is, I think, what our role here is essentially to do.

Frankly, Chair, I would recommend strongly that we engage in further committee hearings, inviting deputations from across the province to come to Toronto or to participate via teleconference, as I understand a delegation is going to do today. I appreciate the fact that we

have opened up these committee hearings to the potential for technological innovation to permit folks from the far stretches of the province to come here to participate in the discussions that we're going to have.

Like I said, Chair, this is an essential piece of legislation. I think we cannot ram these issues through. Parents continually come up to us and talk about the need for an open dialogue on the future of merit-based hiring in our schools. They come to us and talk about things like supervision in our playgrounds. They come to us to talk about a variety of aspects that are of concern to them. We have an obligation to make sure that we get things right, and I don't have a monopoly on exactly what that is. What I do have is a sense of what people are telling me, as a representative of this committee and as a representative in this Legislature—to share those thoughts and those opinions. There isn't unanimity on this piece of legislation. I think that we have an obligation for further public hearings, and I would encourage members of this committee—

The Chair (Mr. Garfield Dunlop): I'm going to have to get you to wind up here, because I've got to go to the presenter now.

1440

Mr. Rob Leone: Well, I will just say, Chair, that I think that we should do whatever we can to further the debate on this particular issue.

The Chair (Mr. Garfield Dunlop): Okay, so we're not having a vote on this today, because we're going to the next presenter, as I explained earlier. Right now we're going to clause-by-clause next week, and if you want to try to change something after that, it'll be at the discretion of the House.

Mr. Bas Balkissoon: Chair?

The Chair (Mr. Garfield Dunlop): Yes?

Mr. Bas Balkissoon: We still have time on the clock, and I'd ask you to call the question.

The Chair (Mr. Garfield Dunlop): Are the members ready to vote here today on—

Interjections.

Mr. Rob Leone: I still had the floor. That can't happen.

The Chair (Mr. Garfield Dunlop): Okay. We're not calling the question today. The members are not ready to vote on this.

Interjection: Yes, they are. They said yes.

The Chair (Mr. Garfield Dunlop): They said no.

Mr. Rob Leone: I still had the floor.

Mr. Todd Smith: We had the floor. The reason that the floor was given up was to go to the—

The Chair (Mr. Garfield Dunlop): Okay. So right now we're going to go to the presenter.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION, DISTRICT 9

The Chair (Mr. Garfield Dunlop): The next presenter is Ontario Secondary School Teachers' Federation, District 9, and Tracie Edward should be on the line.

Ms. Tracie Edward: Yes, I am. Can you hear me?

The Chair (Mr. Garfield Dunlop): Yes, we can. You have five minutes, Ms. Edward.

Ms. Tracie Edward: Okay. Our district represents 1,600 members in six diverse bargaining units. Our members reside and work in ridings currently held by each of your respective parties. Our work creates educated young people and adults who contribute their knowledge and skills to the economy of Ontario. Our right to negotiate and collectively bargain our wages and working conditions defends the public interest, because our working conditions are the learning conditions of students. Our negotiation rights should be strengthened to improve education, not limited. As teachers and education workers, we know the problems students and their families face and see what is needed to resolve them.

School boards have a mandate and are elected to oversee the public education system at the local level. Many school boards have negotiated unique programs and staffing language over the years to meet the diverse needs of their areas. Since local taxation was removed from school boards, it has become progressively more difficult to negotiate local issues. The voluntary provincial discussion tables provided some funding for provincially negotiated items, but the logistics left little opportunity for meaningful local bargaining.

If the aim of provincial bargaining legislation is to raise the standard and quality of education, it must also be available to all education workers, not just teachers, as support staff play an equally vital role in our system. The salaries and working conditions for teachers are somewhat similar throughout the province, but there is great disparity in the salaries and working conditions of our support staff. Provincial standards in this area could address the systemic inequality, and therefore, our support staff have a right to a provincial bargaining table to address this problem.

However, if provincial bargaining's aim is to lower standards to the lowest common denominator, it will not only have no legitimacy, it will lead to conflict and instability—something the legislation is intended to eliminate. We think wherever this legislation eliminates the right of one party, whether it be the unions or the boards, to say no, it violates democratic rights.

No one party should have the recourse to dictate; otherwise, it will only lead to conflict, as has been witnessed with the contracts imposed with Bill 115, the Putting Students First Act, and the reversal of the imposed provisions in the teachers' contracts in British Columbia. Bill 122 leaves the crown with the prerogative to dictate an outcome if there is a disagreement in several situations.

Where there is a disagreement on what will be negotiated centrally, the government reserves for itself the ultimate right to decide based on very broad criteria. There is a fear that the government could force a truly local issue to the central table and school boards would lose their ability to address unique situations.

Arbitrators will continue to be bound by the boards' ability to pay, yet there is no mention that arbitrators must consider what is fair remuneration or decent working conditions as criteria. Arbitrators should continue to be independent and not bound by one-sided criteria.

The provision which allows the government to dictate the term of collective agreements should not be allowed since the length of a contract is often a critical piece in negotiations.

These measures all violate the principle of equality for the parties in negotiations. The crown also needs to be subject to the duty to bargain in good faith to ensure a government uses its powers appropriately to affirm rights, not violate them, as was done with Bill 115.

When the minister first spoke to the legislation, she stated: "Now we are in a time of fiscal restraint...." This gives us an indication that the government may want these powers not to raise the quality and standards of education, but to restrain workers' rights. The Drummond report called on the government to implement measures such as increasing class sizes and cutting funding to the tune of \$1.06 billion. The Drummond report also refers to teachers' federations, support staff unions and our contracts as "obstacles." Instead, these should be seen as integral to the partnership needed to avoid conflict and improve education.

In closing, we encourage all parties, given it is a minority situation, to eliminate the arbitrary dictate for the government contained within the legislation. If not, then you are helping to bind our hands if the attacks on public education that are implied in the Drummond report are pursued. This will not lead to peace and stability in the education system.

Teachers and education workers in Essex county are hoping to see amendments to Bill 122 to ensure any rights we currently have under the Labour Relations Act are reaffirmed.

The Chair (Mr. Garfield Dunlop): Is that your presentation completely, Ms. Edward?

Ms. Tracie Edward: Yes. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much. We'll now go to each of the three parties for questioning.

We'll start with the official opposition. Mr. Leone.

Mr. Rob Leone: Tracie, thank you for your presentation. I'm just looking for my agenda. Where are you from?

Ms. Tracie Edward: District 9. It's Greater Essex, down in Windsor.

Mr. Rob Leone: Sorry, I missed that.

Ms. Tracie Edward: Windsor, Ontario.

Mr. Rob Leone: Oh, so you're in southwestern Ontario?

Ms. Tracie Edward: Yes.

Mr. Rob Leone: Well, I appreciate the fact that you took the time to get yourself on the list to make a presentation today. I think it's an important part—that we start soliciting some ideas from folks like you in terms of

the different things that may be impacting you, perhaps particularly at a more local level. I think that's very important to understand.

If I could ask you, what is the most important thing that you'd like changed in this piece of legislation?

Ms. Tracie Edward: I guess from a local perspective, having the government have the ability to put something at the central table that is truly local in nature.

Mr. Rob Leone: So you're worried. Are your members worried about the same kind of thing?

Ms. Tracie Edward: Yes. We have some very unique programs in our school board and the contract language fits with that.

Mr. Rob Leone: Can you explain what those unique programs are?

Ms. Tracie Edward: One of the programs we have is the Walkerville Centre for the Creative Arts. The process for people to be hired into those programs is through an interview process. We have language that has them staffed appropriately while still protecting the staffing of other staff in the building who are not in that program particularly.

Mr. Rob Leone: So your position is that Bill 122 might affect those specific local issues that have been previously negotiated by your board?

Ms. Tracie Edward: Yes. If the minister at the time decided that something was going to be discussed at the provincial table, part of the legislation says that it would not be able to be discussed at the local table and could possibly override our local language.

Mr. Rob Leone: Okay. Well, those are all the questions I have. Thanks for taking the time to be with us today.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Leone. We'll now go to the third party. Mr. Tabuns.

Mr. Peter Tabuns: Ms. Edward, thank you very much for participating today. What you have said has reinforced the comments of a number of the people who presented before us earlier this afternoon. I don't have questions for you, but I do want to thank you.

Ms. Tracie Edward: Okay. Thanks.

The Chair (Mr. Garfield Dunlop): We'll now go to the government members. Mr. Balkissoon.

Mr. Bas Balkissoon: I just want to say thank you to Ms. Edward for taking the time to present to us today. I have your written presentation. It's similar to what other parties have given to the committee. I appreciate your input, and thanks very much.

Ms. Tracie Edward: You're welcome.

The Chair (Mr. Garfield Dunlop): Thank you very much, Ms. Edward, for your presentation today.

Ms. Tracie Edward: Okay. Thank you.

The Chair (Mr. Garfield Dunlop): That concludes our presenters today, ladies and gentlemen.

We have an amendment deadline of Monday at noon, and written submissions at 3 o'clock today. We'll see you back here next Wednesday at 12 o'clock, noon, for clause-by-clause.

The meeting is adjourned.

The committee adjourned at 1450.

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Mr. Todd Smith (Prince Edward–Hastings PC)

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Mr. Rob Leone (Cambridge PC)

Mr. Peter Tabuns (Toronto–Danforth ND)

Also taking part / Autres participants et participantes

Mr. Taras Natyshak (Essex ND)

Ms. Peggy Sattler (London West ND)

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Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

Wednesday 5 March 2014

Journal des débats (Hansard)

Mercredi 5 mars 2014

Standing Committee on the Legislative Assembly

Committee business

Comité permanent de l'Assemblée législative

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 5 March 2014

Mercredi 5 mars 2014

The committee met at 1200 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Garfield Dunlop): Okay, folks. It's 12 o'clock and we're going to continue the Standing Committee on the Legislative Assembly and Bill 122, An Act respecting collective bargaining in Ontario's school system. Today we're scheduled for clause-by-clause, but we do have a motion by Mr. Balkissoon on the floor and also an amendment.

Mr. Balkissoon.

Interjection.

The Chair (Mr. Garfield Dunlop): Okay. Just to be clear, the amendment from last week that called for committee hearings for today would be ruled out of order because we have no way of advertising for today when it's already the day.

We'll go back to the motion by Mr. Balkissoon. Did you want to read it again?

Mr. Bas Balkissoon: I can read it again.

The Chair (Mr. Garfield Dunlop): Okay. Maybe you should.

Mr. Bas Balkissoon: I move that the committee seek the authorization of the House leaders to meet on Tuesday, March 11, and Wednesday, March 12, 2014, between 9 a.m. and noon and 1 to 5 p.m., for the purpose of clause-by-clause consideration of Bill 122.

The Chair (Mr. Garfield Dunlop): Discussion on that? Any more comments, Mr. Balkissoon?

Mr. Todd Smith: I would like to comment on that.

The Chair (Mr. Garfield Dunlop): Just give him a chance to—

Mr. Bas Balkissoon: Mr. Chair, I basically moved the motion because this is an important piece of legislation. The government has done a lot of work with the stakeholders and we attempted to move this into the House as fast as possible during the break over Christmas. Unfortunately, everybody was not available. We're off next week. Just to speed up the process, I'm trying to see if we could get two days assigned next week.

The Chair (Mr. Garfield Dunlop): Any more comments from the government side right now on that? Okay. Mr. Smith.

Mr. Todd Smith: Thank you, Chair. I would agree that this is an important piece of legislation. As we've discussed at length, in our opinion as the official oppos-

ition, we haven't had the public hearings expanded to include a larger scope of people in the province who are very important. As I've mentioned before, those people are the parents of the students who are in our school system right now. I would maintain that the way that the committee was set up and the public hearings were advertised, we never did have the opportunity for parents to be fully consulted on this. I know the parliamentary assistant had said in a previous meeting that this wasn't really a concern for parents out there, but I can tell you that it's a huge concern for the parents in Prince Edward-Hastings who I speak with. I know that it's a huge concern for parents in Cambridge, where my colleague Mr. Leone is the representative, and it's a huge concern for parents right across the province.

I can tell you that in the heat of Bill 115 and the controversy surrounding the McGuinty government's bill that was brought forward, my constituency office was inundated with calls, emails and correspondence from concerned parents that this type of incident could occur again. There were many teachers, actually, who reached out to me and my office who said that they were concerned about extracurricular activities in particular being suspended as part of job action on behalf of the various teachers' associations that were involved in the federations.

Many of the football coaches in my area, for instance, thumbed their nose, actually, at their union's mandates that they not participate in football practices and that they not organize their teams for the upcoming season in the fall of that year. Some, though, out of fear that those extracurricular activities would result in some kind of sanctions against them, didn't carry out their football practices, and the football programs were suspended.

I can tell you that many parents were concerned. Their child was involved in a curling bonspiel and they had paid the \$60 or \$80 to register their team in that bonspiel. At the last minute, because of strike action or job action, they were unable to send their sons and daughters to these various bonspiels. So there is a large concern when it comes to the extracurricular aspect of this.

I believe and I still maintain, and I know my colleague Mr. Leone maintains, that parents out there were never given the opportunity to participate in this process. The education minister, in response to a question from Mr. Leone yesterday in question period, admitted as much: that those stakeholders had been consulted, but there are

an awful lot of stakeholders out there who weren't invited to participate in the proceedings.

We were simply asking that because of the way the committee format was advertised and the fact that there was already a full slate of participants ready to go—I believe the number was 12 that we heard from the public hearings process, yet the government was trying to shut out any further participation from stakeholders across the province by limiting it to the one day, when the day of public hearings was already a full schedule. We just maintain that there should be an extra day of public hearings so that we can hear from interested parties from across the province who would like to come in to speak about the situation that they faced in their personal ordeal. They would like the opportunity come here to make sure that this bill prevents that type of activity from happening again.

As a matter of fact, we heard from one of the Catholic trustees who presented here at public hearings that that group of individuals would also like to see extracurriculars included in the job description for our teachers in our schools.

I would argue again, and I know Mr. Leone is with me, that we open up this committee again to an additional day of public hearings. I have a long list of constituents in my riding who have written to me, knowing that I am a part of this committee and that we are discussing this very important piece of legislation, that we should get it right; and they would like the opportunity—I know Mr. Leone has a list of participants as well who would like the opportunity to come in and speak to the committee and express their concerns over what happened in their personal situations.

There were grade 8 graduations that were cancelled in my riding because of the threat that the unions were presenting to their members. In many cases—again, many cases, Mr. Chair—the teachers who were involved in these various extracurricular activities, whether it be the yearbook committee, the graduation ceremony, the debating club, sports activities or the various committees that exist in our schools—that they have an opportunity to come and appear before our committee to tell their side of the story so that when we are passing this legislation, we make sure that we have all of our bases covered and the public hearing process actually is a public hearing process.

I think there's a feeling out there in the community that the public hearing process has been a farce and that it's been set up from the start to include only those parties that the government wants to hear from. I think it was evidently clear when we were arguing this motion a couple of weeks ago that they were very close-minded to the idea of having parent groups or maybe even individual teachers—who knows?—show up here and appear before our committee to tell us about their situations and what should be included in this legislation.

I believe that if we're going to have public hearings, they should actually be public hearings. The fact that the public hearings were advertised and we were looking for

people to appear before this committee in spite of the fact that we had no slots for them to appear in and testify or bring their stories to our committee is a farce. It just goes to show that the government wants to close out any kind of public opinion there might be on Bill 122. I don't think that's the way that we should be operating in this democracy that we live in. It reminds me so much of what happened with the Green Energy Act and the fact that in the Green Energy Act, they completely shut out local decision-making in the process, hearing from local municipalities or from local residents to ensure that we got it right.

1210

I think, when you look at what has happened with the Green Energy Act, Chair, it has been an absolute debacle right across the province. Why would we repeat that type of scenario in our education system? The government has messed up the energy system in the province so badly because I don't believe there was proper public consultation in the process. Municipalities were uninformed about what was going on, and then they were cut out of the process. We're seeing the ramifications of that right across the province on a daily basis.

So I would question the motives of the government in trying to push this through without involving as many people as we possibly can to ensure that we get this right, because the last thing that we want to have is another piece of legislation that wasn't well thought out, that those people in the province who have concerns about this weren't consulted and weren't given the opportunity to bring forward their potential amendments to this bill as well. I'm sure that there are many concerns out there.

It's alarming to me as well that there is this rush to get this passed. I understand there may be some motivations as to why the government feels that way and why they want to get this pushed through and that we don't have the proper consultations. But it seems only fair to me that we be able to meet at least one more time and invite people from the community and from across the province to come. We've been centred in Toronto, too. We did have a few call us from their office, wherever it might be across the province, to tell us their thoughts on the legislation, but I think we deserve an opportunity to really open this up, have public consultation and make sure that we get this right.

We have a number of amendments, of course, that are before us. I believe that if we were granted an additional day to hear from parents out there, teachers, perhaps even some students and student trustees who would like to appear before the committee—I believe that we do that.

So I would encourage our government members to give us one more day of public consultation on this. I don't know if Mr. Leone has some comments. Did you have some comments?

The Chair (Mr. Garfield Dunlop): Try to keep it to the motion. They are asking for two more days of clause-by-clause.

Mr. Todd Smith: Right. Clause-by-clause is fine, Mr. Chair, but what we would really like is one more day of

public consultation. I understand that the motion that was put forward by Mr. Leone—

Mr. Rob Leone: It has been ruled out of order.

Mr. Todd Smith: It has been ruled out of order, so I would like to put forward another motion, an amendment to the motion.

I would move that the motion be amended by striking out “seek the authorization of the House leaders to meet on Tuesday, March 11, and Wednesday, March 12, 2014, between 9 a.m. and noon and 1 to 5 p.m.,” and that it be replaced with “meet for the purpose of public hearings on March 19 and 26, 2014; and that the committee also meet on April 2 and 9.”

Do we have photocopies of that? Have they been distributed?

The Chair (Mr. Garfield Dunlop): We need about a five-minute recess to make copies for everybody. Okay?

The committee recessed from 1214 to 1220.

The Chair (Mr. Garfield Dunlop): Okay, we'll call the meeting back to order, everyone.

I think everyone should have a copy of the motion moved by Mr. Smith. Do you want to read that again to everybody, to make sure it's okay? Mr. Smith, I'll ask you to read it again, and then we'll open it up for discussion.

Mr. Todd Smith: Thank you, Chair.

I move that the motion be amended by striking out “seek the authorization of the House leaders to meet on Tuesday, March 11, and Wednesday, March 12, 2014, between 9 a.m. and noon and 1 to 5 p.m.,” and that it be replaced with “meet for the purpose of public hearings on March 19 and 26, 2014; and that the committee also meet on April 2 and 9.”

The Chair (Mr. Garfield Dunlop): Would you like to speak to that, and then we'll move it around—

Mr. Todd Smith: Yes, thank you very much.

As I was alluding to earlier, I think it's only fair that we open up these proceedings and open up the hearings to parents from across the province or other consulted stakeholders. I can tell you honestly, Chair, that when all of this was going on and the Bill 115 situation, in my riding the phone lines were lit up in my constituency office.

My wife happens to be a high school teacher as well, and I can tell you that I have many friends who are teachers, very good teachers, and they were very upset at the prospect of not being able to participate in the extra-curricular activities that they volunteer for and that they were very excited about, to be quite honest.

There were many sports coaches, there were many organizers of school clubs and graduations and school trips, who wanted the opportunity to continue to perform those activities. At the end of the day, they were disappointed with what transpired, that they were unable to provide those types of functions for their students. Most of the teachers I know are in this profession because they actually care about the students and want them to excel.

However, there was this threat that was hanging over their heads, and they want that to be addressed in the legislation that we're talking about. I think it would be an

enlightening type of conversation for us to have if we actually broadened the scope of public hearings to include these individuals who may want to appear before our committee to share their stories.

As I told you earlier and told the committee earlier, there are many individuals who have expressed a concern about the way that this committee has, so far, held its “public hearings,” and I know my colleague Mr. Leone has heard from many potential stakeholders out there as well who would like the opportunity to come in here and address the important piece of legislation that we've been talking about.

Just thinking back to that time, Chair, I know that there were many teachers who wanted the opportunity to get their sports teams on the field, because there are so many of our young athletes out there who can enhance not just their public school careers, but they can also enhance their post-secondary school careers by getting a scholarship from a university. What happened with the implementation of Bill 115, and the job action that occurred because of that, was that there were many young athletes who didn't have the opportunity to hit the field or to hit the basketball court or volleyball court or the swimming pool or the curling rink or the hockey rink and show potential university and college scouts how good they were in their particular sport and activity. There were a lot of students who weren't given the opportunity to show their stuff on the field of play because of what happened.

We should really make sure that we eliminate that type of incident from happening again in our public schools. I think we all agree in this room that extracurricular activities are extremely important to the entirety of the school day and the school experience, whether it's elementary or secondary school, for that matter.

Another item that was very concerning to me and to parents in Prince Edward-Hastings was that in a lot of cases, there were students who needed extra help, in math in particular—and I know my colleague Mr. Leone has presented some scenarios that would help improve the math scores and the experience for our young students in learning math. He presented those earlier this morning, and I'm sure he'll want to address that a little bit later.

There was a big concern, with parents in my riding, in cases where students just needed a little extra help. There were teachers, of course, who wanted to provide help to those children, but again, out of the fear of sanctions against them, they didn't perform those duties. I know it was a heart-wrenching kind of ordeal for a lot of teachers out there, because they wanted to provide those services and they wanted to do what they got into this career to do, and that is to help young students learn. But there was this fear hanging over their heads that they would be punished if they provided those types of tutoring services or extra help after class. I know we heard a lot about that from the broader community, and I think it's something that we need to address.

Another issue that was a big concern, especially in some of the more rural areas in particular, is that when these protests were happening or the job action was

taking place, there was no notice, or not much notice, in the communities in alerting the parents that there wouldn't be school that day. I think there needs to be a broader discussion as to how we can prevent that from happening again.

We have many families who have two parents who are working, trying to make ends meet, and they have children who are going to school during the day. Then, with little or no notice, it's sprung on them in the morning that there won't be school that day, that things that they anticipated would happen that day weren't going to take place, and it created a lot of animosity between parents and the teachers. There was a lot of outrage, actually, and I know the talk show phone lines were lit up like Christmas trees with parents who were fed up and just felt like they weren't being treated fairly, either, as a part of this process.

Many, many people contacted my office about that issue, that suddenly they had to find someone to look after their children for the day because they weren't going to be transported to school. I believe that's another issue that could be discussed here at committee, that parents should be consulted on these types of issues as well.

There were many school trips that were cancelled. Parents had paid the fees to send their children on these school trips. As you'll recall, I'm sure, in your school days, which were a number of years ago, Chair, you looked forward to that field trip every year. It was on your calendar when you were in grade 1 that when you were in grade 4, you were going to go on that ski trip and have a great time with your classmates. A lot of those school trips were cancelled as well. Of course, the parents are paying for their children to participate in these school trips and, in some cases, the fees had been paid and the parents were fully anticipating and the students were fully anticipating the opportunity to head to these school trips, wherever they might be.

I recall that one very popular trip in school in the Prince Edward-Hastings area is a trip to Quebec City that the students take every year. As you can imagine, it's a highlight of their public school experience. When they get to grade 8, they get the opportunity to go to Quebec City and learn about the history of Quebec City and experience what life is like in La Belle Province. Unfortunately, that was denied them because of job action.

There are so many people who have so many concerns that we get this piece of legislation right. I think it's only proper and only fair that this public hearing process actually include participants from outside the teachers' unions, federations and associations, the school trustees' associations and the school boards. Essentially, that's who we've heard from in the opening day of public hearings. But we didn't broaden that scope, and I think it's only fair, when you call them "public hearings," that they actually include the public and allow the public to participate.

1230

That's why we're bringing forward this motion. We think it's only fair that we have an extra day or two of

public hearings. Advertise it properly. If the slots fill up, which we anticipate they will, with people who have a real concern about getting this bill right—that they have every opportunity to make the trip here to Toronto or join us by teleconference or however they wish to participate.

The process so far has been very one-sided. I know the government continues to say that the stakeholders that really care about this have been consulted, but I think the government members are very closed-minded about the fact that there are a lot more people who have concerns about this process than just the teachers' federations and the associations of trustees and the school boards—and that we hear from all of these individuals, or at least give them the opportunity, when, so far in this process, they have been shut out. I have deep concerns about this. As I mentioned earlier, it reminds me an awful lot of what we've experienced with the Green Energy Act, and the fact that the government is doing what it wants and takes a very one-sided approach to getting things passed. We need to have the public consultations.

All three parties have said this is a very important piece of legislation. We need to get it passed. I understand that, and I think we all agree that we need to get it passed. But more importantly, when you're dealing with an important piece of legislation, I think the most important thing is to make sure we get this very important piece of legislation right. If we don't include comments from people from the community, and parents, it's a great disservice to what we were sent here to do, and that is to represent our constituents, first and foremost, but to make sure that when we pass laws, they're actually good laws that make sense for the people of Ontario.

Again, I would encourage the members from the government side, and the third party as well, to support this motion. I can't understand why they wouldn't want to support this motion to allow interested parties the opportunity—it's not a lot of time; it's a couple of days—to come in, tell us what they think, what their concerns are, and then we move on from there.

I'll wrap up my comments with that. Thank you.

The Chair (Mr. Garfield Dunlop): Okay. Further debate? Mr. Leone.

Mr. Rob Leone: I would want to congratulate my colleague from Prince Edward-Hastings on coming forth and joining the fight for what we consider an important element of what we're doing here, which is to provide full public hearings on Bill 122.

At the outset, I want to first explain that we've always believed that only having one day of public hearings on this very important piece of legislation is simply inadequate. We have always, always sought to enrich ourselves, as committee members, about the content of this legislation. I think we went through a very fruitful process last week when we engaged in our first session of public hearings. I learned a lot about what folks were saying about this particular piece of legislation.

But, Mr. Chair, I want to say very clearly that since that time, and since our position was made in committee last week, I know that members of the PC caucus, and

my colleague here from Prince Edward–Hastings, from people from his riding—I’ve heard from people from my own riding and from people who were interested in education, right across the province of Ontario, wanting to come forward with some ideas about this particular piece of legislation.

I think it’s important to note that we have been consistently behind the principle that our parents have to be at the centre of our education system. We’re concerned that there’s a further erosion of that solid principle and that parents are no longer at the centre of education but they have to face all the ramifications of not being a partner in education.

I’m very concerned that throughout the course of our discussions and deliberations on this particular piece of legislation, we continually talk about partners. Those partners always include the teacher federations, as they should. They always include the trustee associations, as they should. But I have never heard from the government that parents are, and should be, partners in the education system.

As a parent, that gives me cause for great concern. As my children start their education, I thought we would have a system that is obviously responsive to their needs and concerns but also producing the best students from the best teachers in the province of Ontario. I think we can do a lot to promote that great concept. We’re doing a good job in our schools, but I think there’s room for improvement.

As my colleague from Prince Edward–Hastings has suggested, I released some of those ideas this morning, talking about student success. For me, that is the most important principle that should guide all of our discussions: How could we improve student success going forward? We have identified—not just us, but everyone has identified the challenges that we have received through math education in the province of Ontario. Our test scores have declined, and that’s pretty much right across the board.

Our EQAO results have declined over the last decade. International comparisons are showing that we have received a drop in both our PISA and TIMSS math tests by significant margins. In fact, we’ve made the claim today that on many of those margins, we were actually doing better in 2003, when we left office, than we’re doing today. That’s despite spending \$8.5 billion per year more in education while serving 250,000 fewer students.

That, in a nutshell, Chair, is where we’re coming from on this bill. We want to make sure that we’re doing our utmost to return focus to parents’ and students’ success. It is of vital importance that an education system be concerned about that.

I was very concerned that the Minister of Education was quite flippant when she dismissed essentially the decrease in math scores that we’ve seen in the PISA in particular, and that gives me cause for concern not only as an education critic but also as a parent in the province of Ontario. I think those kinds of comments should be brought to light, and certainly through the course of our

deliberations on this bill and on education in general in this Legislature we’ll have the opportunity to do that.

I want to reference a comment made, I believe, by the member for Scarborough–Rouge River a couple of weeks ago when he suggested that “the public out there that is really involved in this collective bargaining is most of the groups that I mentioned in my opening remarks. It’s not the general public who has a kid going to a school. I don’t see them getting involved in the collective bargaining strategy, in details and whatever. Well, there might be one or two, but everybody out there knows that this bill has been presented to the House and sent to committee for public hearings.”

Now, I know the member has stated this, and I think he’s repeated it again, but my question is, how do we know that? How do we know that there aren’t parents out there who want to talk about this particular piece of legislation? I don’t know if the member’s not receiving the kinds of correspondence, phone calls and emails that I know I am, and I know the member for Prince Edward–Hastings is as well. I would like to know exactly how anyone can determine whether there aren’t any parents out there who want to talk about education in the province of Ontario. I know through my experience as the education critic that there’s nothing more that a parent wants to talk about than the education system that’s before us.

I would challenge the remarks. I think that parents actually do have a vested interest in what the outcome is, in particular because so much of education policy today is being left up to the bargaining process. If that is the case, if so much of our education policy is being left up—whether it’s class sizes, whether it’s other items involving supervision time, whether it’s parent-teacher interviews or whether it’s the provision of extracurricular activities, more and more, all of those activities are being subjected to the collective bargaining process. It would mean, from our perspective, that contrary to the Liberal belief that parents aren’t concerned about this, I believe that parents ought to be concerned about them, and the fact that they have not been considered as a partner in education certainly is a great concern to me. I want to open these public hearings up simply because we have an obligation as members of this Legislature to talk to people, and I know that we have heard various concerns about what is transpiring in our schools.

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I know of a family in my riding that is very concerned about the fact that, come September, we’re going to be in the midst of another collective bargaining season in education in the province of Ontario. This parent has a child who is trying to get a sports scholarship in the United States. The child is ranked in the top 100 prospects coming out of Ontario, and there is great concern that that child will not have a football season to then go on to pursue that scholarship. So there is lots of concern about that process, and there are lots of stories out there.

I know report cards were distributed within the last few weeks. Through that process, we’ve heard from parents who are concerned that parent-teacher interviews

are no longer mandatory, have not been scheduled by schools—not to say that all schools are doing that—but that the onus is put on the parent to contact the teacher if they want to talk about their child's success. I want to talk a bit about that, because what I'm hearing from teachers is that the response rates for actually engaging in discussions about their child's education are significantly lower today, in the absence of the institutional component of parent-teacher interviews that allows parents to set times with their teachers as part of the week. I have some great concern about that.

We have heard from some teachers who suggested that in the process of putting out their requests for parental feedback, they sent out a colour coding of remarks. There are three sets of letters: a red letter that suggests that parents who receive this red letter must come and see the teacher because their student is facing some challenges in the school system; a yellow letter that the teacher sends out that says, "You know, there is some benefit for you coming to meet me"; and a green letter that says, "Your student is doing fine, and if you want to come and talk to me about what's going on in the classroom, I'm happy to entertain those requests." The net result of that, he claims, being a teacher for the last several years, has been that those who received the green letters were the parents that overwhelmingly responded to the teacher's request, and those who received the red letters failed to do so.

As a parent, I'm kind of disappointed—not kind of; I am disappointed—to hear that, but as someone who is in the Legislature, it's heart-wrenching. The very people who actually would benefit the most from parent-teacher interviews are the very ones who aren't going to be able to engage in that process, or aren't responding in that way to the teacher's request for a meeting.

Now, I feel that if we had stand-out days where it's on the school sign outside of their school and it says, "Parent-teacher interviews are happening this weekend," or during certain allotted time slots, the response rate, particularly for those who require that communication from their teacher and specific relaying of strategies to improve student success—it's simply not happening today.

I would suggest that if we had public hearings, some parents might come forward to talk about that process. At the end of the day, my interest is to ensure student success, and there are ways in which we can incent that and gravitate to some ideas that might provide some way of going forward in that.

So, contrary to the belief that parents may not have an interest in this—I know that even though some parents are talking about some things in education that they aren't cognitively linking to Bill 122, I think the discussions that we are having here could play into their desire for more public hearings.

At the end of the day, my colleague from Prince Edward-Hastings has suggested that we engage in two more days of public hearings. I think the committee would do well to listen to that request because I know that the public is very interested in what we're doing

here, and I think we have to do a better job of communicating that education is a very important element.

This bill has a significant effect on what the education system might look like going forward. Even though it identifies the very process that establishes tables and central bargaining and local bargaining and who the parties are to the bargaining process, the very fact that there is that structure in place could have an impact on what's happening with our education system. So I think we owe it to the people of Ontario to engage in further public hearings on this particular matter.

I am quite concerned that the minister, in question period yesterday, stated the fact that the government has been having all these consultations and all these public hearings and everything is being done to do all this work, and I appreciate the fact that the minister might be having public hearings with who the minister sees fit to talk to. But I'm concerned that the minister hasn't had public hearings with the very people who are affected by these changes that are going to be made, namely, the whole education system as a whole.

I appreciate that the minister has reached out to the teaching federations. I appreciate the fact that the minister has reached out to trustee associations. I appreciate the fact that they're trying to establish a process, but at the end of the day, are we actually going to talk to the very people who are going to be affected by the outcome of the process, who are our students?

Again, I can restate this all day, Chair: Our interest is in seeing student success.

How much time do I have, Chair?

The Chair (Mr. Garfield Dunlop): You have six minutes left.

Mr. Rob Leone: Six minutes.

The Chair (Mr. Garfield Dunlop): It's a 20-minute rotation.

Mr. Rob Leone: Okay. Well, I want to just state a couple of things. Maybe I'll cede that for the moment and move to what I want to talk about with respect to this motion.

I think this motion has been crafted with the explicit purpose to solicit more public consultation. As it's suggested, the motion states that we should have public hearings on March 19 and March 26, 2014. The reason for doing so, Chair, is, I believe—and why I support this motion—that we require and we owe it to people to advertise this, to solicit some feedback, to go out to the people who have reached out to us on this bill, to tell them to come forward and talk about some of the issues surrounding this particular piece of legislation and the education system as a whole.

Chair, I realize that next week is March break. I have a kid, and I know my kids are going to be on March break, and the very people who may be interested in coming forward to this particular committee, from our perspective, may be tied up with March break, with caring for their children or they might be going on vacation. So there is a reason—I think a very solid rationale—to have public hearings commence on March 19 of this year so

that we avoid the complexities of dealing with March break.

I know that people have already premade their travel arrangements, and to expect them to come next week and change their travel arrangements I think would be not in good faith in terms of trying to solicit the public hearings and the consultations that we're seeking.

I think it's a very important piece to note, that one of the reasons why I believe the member for Prince Edward-Hastings—I don't want and don't mean to put words in his mouth, but I believe he moved this amendment to suggest and consider that public hearings should take place outside of that week so that we would do our best to not only advertise to the people who might want to come, but that we also consult our stakeholders. I think we are going to be challenged with the time crunch already. I do realize that there is a PD day on Friday, which is already going to complicate people's travel arrangements. They're going to leave a little earlier, rather than later. We're going to be under a crunch with respect to trying to get this stuff out before the break.

Having said that, even if that is the case, we do have Monday, Tuesday—Monday, March 17, I believe, which is St. Patrick's Day. I know my colleague is very excited about the fact that we are celebrating St. Patrick's Day on the 17th, and maybe he'll entertain authorizing some green beer. Is that safe to say, that the member from Prince Edward—

The Chair (Mr. Garfield Dunlop): Back to the motion, please.

Mr. Rob Leone: You're salivating, Chair; I know that you're salivating.

Then on March 18, we have an opportunity as well, once the dust settles on St. Patrick's Day, to try and solicit some information.

Given that we are going to do that, if, for whatever reason those people that we've reached out to can't make the March 19 date, we have set aside March 26, in addition to March 19, as a date for public hearings.

Chair, I think what this motion seeks to do is to maximize the opportunity for public consultation. In addition to what I imagine are countless hours that the minister has provided, talking to everyone but parents, I think that we have an opportunity to talk to everybody, including parents. I think that's a contrast that we would make.

I would also suggest that there are actually key education stakeholders who have not had the opportunity to comment on this bill that I believe would have a vested interest in doing so. I think that we obviously owe them the opportunity. I met with one yesterday that didn't even know about the fact that—

The Chair (Mr. Garfield Dunlop): You have a minute left, by the way.

Mr. Rob Leone:—thank you—that didn't even know about the fact that we were having deliberations on Bill 122 already. I'm sure I'm going to have the opportunity at some point to talk about that, because I was quite shocked that the government would not reach out to other key educational stakeholders to discuss the merits of Bill 122 and the effect that it might have on the system. There

are lots of folks who have some commentary on the system and how this bill might affect it.

Chair, I'm going to basically leave it at that. I would strongly urge this committee to consider this motion, to consider further public consultation, and to not shut the door on debate on this particular issue.

I congratulate, once again, my colleague from Prince Edward-Hastings for bringing this amendment forward.

The Chair (Mr. Garfield Dunlop): Thank you. I'll turn the floor over to anybody else who would like the rotation on this, or a speech on this. Any further debate from anyone?

Mr. Peter Tabuns: Ready to vote.

The Chair (Mr. Garfield Dunlop): Okay. You've all heard—this is a motion—

Mr. Rob Leone: Can I have a 20-minute recess, Chair?

The Chair (Mr. Garfield Dunlop): Pardon?

Mr. Rob Leone: A 20-minute recess before we have the vote.

The Chair (Mr. Garfield Dunlop): A request for a 20-minute recess. Okay, a 20-minute recess, guys. Be back here at quarter after 1.

The committee recessed from 1253 to 1313.

The Chair (Mr. Garfield Dunlop): Okay, everyone, we'll call the meeting back to order. Our first order is to vote on the amendment.

Mr. Rob Leone: Can I have a recorded vote, Chair?

The Chair (Mr. Garfield Dunlop): Those in favour of the amendment?

Ayes

Leone, Smith.

Nays

Balkissoon, Cansfield, Crack, Tabuns.

The Chair (Mr. Garfield Dunlop): So the amendment is defeated.

Mr. Smith?

Mr. Todd Smith: Can I move another motion?

The Chair (Mr. Garfield Dunlop): Please go ahead.

Mr. Todd Smith: I move that the motion be amended by striking out "Tuesday, March 11, and Wednesday, March 12, 2014, between 9 a.m. and noon and 1 p.m. to 5 p.m.," and that it be replaced with "Tuesday, March 18, from 3 to 6 p.m., for the purpose of conducting public hearings; and that the committee also sit for public hearings during the committee's regularly scheduled time on Wednesday, March 19, 2014; following public hearings, the committee shall meet on March 25 and 26, 2014."

The Chair (Mr. Garfield Dunlop): We'll need a photocopy of that.

Yes, go ahead.

Mrs. Donna H. Cansfield: Can I ask a procedural question? Is this a new motion or an amendment to the motion that was before us?

The Chair (Mr. Garfield Dunlop): It's an amendment to Mr. Balkissoon's motion.

Mrs. Donna H. Cansfield: Right. So how can you put an amendment to a motion that was just voted on and lost?

The Chair (Mr. Garfield Dunlop): It's a different amendment.

Mrs. Donna H. Cansfield: It's a different motion then?

The Chair (Mr. Garfield Dunlop): It's a different motion, yes.

Mrs. Donna H. Cansfield: That's what I needed to know.

The Chair (Mr. Garfield Dunlop): Yes. We'll need a five-minute recess on this, so we'll come back in five minutes.

The committee recessed from 1314 to 1319.

The Chair (Mr. Garfield Dunlop): We'll reconvene the meeting. We have another motion. I'll ask you to read it again, Mr. Smith, and then make comments on it.

Mr. Todd Smith: I move that the motion be amended by striking out "Tuesday, March 11, and Wednesday, March 12, 2014, between 9 a.m. and noon and 1 to 5 p.m.," and that it be replaced with "Tuesday, March 18 from 3 to 6 p.m., for the purpose of conducting public hearings; and that the committee also sit for public hearings during the committee's regularly scheduled time on Wednesday, March 19, 2014; following public hearings, the committee shall meet on March 25 and 26, 2014."

The Chair (Mr. Garfield Dunlop): Debate?

Mr. Todd Smith: Yes. Again, what we're after are public hearings. All of this could have been avoided today—these motions—if the government and the third party had agreed to having a day of public hearings.

As we broke for break, there were a couple of people who mentioned to me that we're delaying this bill. The fact of the matter is, as I explained during my previous comments, the public has been ignored in this process. Today, we could be sitting here with parent groups, parent councils and other interested stakeholders if the government had simply agreed that we should have public hearings that didn't just include the list of presenters that they wanted to hear from. All of this could be avoided. I want our stakeholders who are here in the committee room to understand that, that all we wanted, as the PC caucus, was to hear from concerned parent groups, parent councils or any other concerned stakeholders for an extra day.

The government, in its wisdom, for whatever reason, decided that they didn't want that to happen. So what we're forced to do to have the ability to hear from those parent groups is to bring forward motions to the original presentation by Mr. Balkissoon.

We could be done the public hearings by now, or be very close to being done by now, if the government had simply agreed to open up this process to the concerned group. So I want everybody here to understand that we could be moving ahead with this bill if not for the actions of the government and the third party.

I'm not exactly sure what their resistance is to allowing the public to speak. Again, that is why we were elected in our constituencies: to ensure that the voices of our constituents were heard, that the voices of our ridings were heard. It's the people who voted us to come here to Queen's Park to represent Prince Edward-Hastings, Cambridge, Glengarry-Prescott-Russell, Brampton West or Scarborough-Rouge River. We have an obligation to do that. Not presenting the information to the residents in our constituencies and affording them the opportunity, in this forum, to come here and present their opinions and give us their side of the story to share their concerns with the piece of legislation with us is fundamentally against the whole reason why we were sent here.

There are so many concerns out there in our education system. My colleague from Cambridge outlined many; I previously have mentioned a number.

The actual public hearing process that we had, that one day that we met last week, honestly, was a joke. We didn't even have the opportunity to question the witnesses or the delegates that we had here in any real type of format where we could ask them questions. We were given three minutes—that's it—to question those who were here.

Again, it's great that we had the 12 presentations, and honestly, we ripped through them as fast as we possibly could, as if they didn't want us to ask them questions, that they just wanted to get in here and get out and get this on the move. Right? No matter what the cost. No matter what the flaws that exist in this piece of legislation, we have to ram it through, get it done and move on because we're the ones who have that cozy relationship with the government or the third party. We had three minutes. You could barely even introduce yourself by the time we were asked to wrap up.

There were a lot of questions that I know our education critic would have loved the opportunity to ask if it had been a real public hearing, if we had a legitimate amount of time to ask questions. But he wasn't afforded the opportunity to do that because the whole public hearing process has been rammed down our throats, to be perfectly honest.

We haven't had the opportunity to ask the questions and ensure that what we're doing is in the best interests of the students of Ontario, and improving our education system, and to making sure that the checks and balances exist in this legislation that should be there.

I know that stakeholders who are here watching this are frustrated, because this piece of legislation isn't moving through at the speed of lightning, but I can tell you that we could be moving along a bit more swiftly if the government just allowed the opportunity for public hearings—and real public hearings—to occur.

There are many concerns out there that I hear about in my constituency office in Prince Edward-Hastings, in Belleville. I've outlined a number of them in my opening remarks here this afternoon, whether it's scholarships with extracurricular activities, on the playing field, and extra help and tutoring for students in the classroom after

hours that wasn't allowed; the fact that there was little or no notice given to parents as a result of previous job action, school trips being cancelled. Those are some of the items that I hear about often.

But what really is lacking in this entire process is the ability for real people to come in here and—not that the teachers' federations and the school boards aren't real people, but they represent one side of this story.

The Chair (Mr. Garfield Dunlop): Back on topic.

Mr. Todd Smith: I'm talking about parents. I'm talking about parents who have genuine concerns.

Where are the principals in all of this? Have we actually heard from the principals? Principals are the leaders in our schools. They're the ones who have to live with the legislation that we pass here in this Legislature. Have they been consulted? Have we heard from them in a public hearing? No, we haven't.

These are, honestly, the people who work the longest hours in our schools. They're there during the summer breaks, they're there well into the evenings, and I know this because I spend a lot of time in the schools. I have two daughters in public school and I have a wife who's a high school teacher.

These principals carry so much responsibility for the daily activities in the school. They're the ones, ultimately, who are held responsible for what goes on in these learning institutions, and we've excluded them from this process. It doesn't make sense. I know that is one of the groups that has been shut out, and I believe, would love to have the opportunity to come and speak to us as a committee and talk to us about what Bill 122 is actually going to mean for the day-to-day activities in their school.

1330

I know that the principals are concerned about supervision, whether it's on the playground, perhaps on bus duty or in the lunch room, in the cafeterias of the schools. They have genuine concerns about what's happening in their schools. They're responsible; they're ultimately responsible. So how can we leave that incredibly important stakeholder out of these discussions?

As I mentioned earlier, the presentations that we've had before the committee were fine presentations. As you would expect, you would have the teachers' federations here and the associations, and the school board trustees and the school boards represented, but the principals should be here. We haven't talked enough about the role that the principals play in our schools and how this legislation could potentially impact them at the end of the day.

I know that the principals' councils would be more than pleased to appear before the committee, if we're successful in getting this motion and amendment to the motion passed so that we exclude the meetings during the March break, as my colleague mentioned. Teachers, principals and parents of school children are pretty limited as to when they can actually take a holiday. They can take a holiday during the Christmas break, they can take a holiday during the March break, but for the most part, the rest of the time, they have to have their children

in school—although I can tell you that in Prince Edward-Hastings this year, we've had so many days cancelled because of winter storms, it's been like an old New Brunswick winter. In Prince Edward-Hastings this year, I believe we've had two full weeks of school days cancelled because of the snow we've received. Imagine what losing those two weeks means to the education of our children—but that's another story. The point that I was trying to make is that parents, teachers and principals are somewhat limited in the time when they can take a holiday.

We want to ensure that we hear from those key stakeholders in our education system in the public hearings. That's why we've proposed that we sit on Tuesday, March 18 for public hearings in the afternoon, and also the very next day, on March 19, during our regular meeting time as well, to hear from those people.

The other issue that we haven't touched on—I know Mr. Leone touched on student success, but one of the other issues that we really need to focus on—I've heard from probably not as many people on this as my colleague has, being the education critic, but 274 is a big deal. We want to ensure that we have the best teachers in the classroom, not just the longest-serving teachers in the classroom. I know principals have a concern with this issue as well. We're protecting, in some cases, teachers who aren't effective.

We need to have the best and the brightest teachers in our classroom, especially when you consider what my colleague outlined: declining scores in math. We need to ensure that we have the very best teachers in the classroom. Age doesn't matter; there has to be a way that we have the flexibility to ensure that we have good teachers—the best teachers—in the classroom. We can all look back to our school days and remember which teachers were actually effective and some who were just there to pick up a paycheque. Fortunately, there weren't that many in that category. Most of the teachers I know are there for the right reason and they're committed to teaching our children, but we want to ensure that we have the best teachers in the classroom and I—

The Chair (Mr. Garfield Dunlop): You have five minutes left.

Mr. Todd Smith: Five minutes left?

The Chair (Mr. Garfield Dunlop): You have five minutes left, yes.

Mr. Todd Smith: Thank you.

I think of Jason Trinh, who was the Premier's teaching award recipient—I forget exactly what the title of the award was. Here's a young man who lost a position, essentially because of declining enrolment, I believe.

There should be the opportunity for principals to ensure that our best teachers are actually in the classroom. I'm friends with many, many teachers who are excellent young teachers, who have a real drive to be in the classroom and a real innovative approach to teaching and an enthusiasm for teaching, who are having such a difficult time getting a full-time position. In many cases, they're head and shoulders above other teachers who are in the school, as far as their enthusiasm and their ability

to teach, but simply because of the structure that exists within the contracts these days, they are unable to get a full-time spot in the classroom. It's extremely disheartening for these young teachers. Again, much of this is because of declining enrolment.

The other issue—and we haven't heard from young teachers, who aren't part of a union or an association yet, who are having such an incredibly difficult time getting on the supply list to even get experience, because those spots on the supply list are being filled by retired teachers. I can think of a couple of young ladies who have graduated from teachers' college. They're full-fledged teachers, very enthusiastic young women. They're from Bancroft, in my riding, which is a small community. There's a high school there and a couple of public schools. They want to get on that supply list for the Hastings and Prince Edward District School Board. They want to get the opportunity to start to pay off their OSAP, their student loans. They want the opportunity to start to get the actual classroom experience that they're going to need to get that full-time job—

The Chair (Mr. Garfield Dunlop): Try to concentrate more on the dates on the motion etc. Try to get to that.

Mr. Todd Smith: Sure, I'll get to it. But these are the kinds of people that I believe should be here. Again, they'll be here during those public hearings on March 18 and March 19, if we're successful in having this motion passed.

What's happening right now for these teachers is that they're being left off that supply list. It's not just retired teachers from Hastings and Prince Edward who are coming in. They're actually bringing in retired teachers from Peterborough to teach in these classrooms. So it's very frustrating for these young teachers, who I'm sure would love the opportunity to come in and speak to some of these issues that exist within the current education structure in the province of Ontario.

That's why I believe that we need to have another day. This motion is calling for potentially another two days of public hearings. Of course, if we don't get the deputations, if we don't have a speakers list to fill those two days, we'll deal with that at that time. But I believe and I am very confident that, between the people who have spoken to my colleague Mr. Leone and those who have reached out to me, we can fill another two days of public hearings and actually hear from the people who are affected by this.

A couple of key stakeholders that I mentioned who should be approached are the young teachers. We need to ensure that their voice is being heard on how Bill 122 affects them. We also should be hearing from the principals, who are so important to the functioning of our education system in the province of Ontario. So far, their voice has been moot. That's a shame, because they are such important people in the education system in Ontario.

I would encourage the other two parties to pass this motion so that we can include key stakeholders like the principals' councils and the young teachers in Ontario.

Thank you, Chair.

The Chair (Mr. Garfield Dunlop): Further debate? Ms. Forster, you have debate?

Ms. Cindy Forster: Yes. I'd like to actually call for the question. Is it possible to do that? I mean, clearly this is just filibustering. It's a way to delay this process. We have all these people sitting here wasting their whole afternoon listening to this. If there's a way to call the question, I think we should be doing that.

1340

Mr. Rob Leone: I still have further debate.

The Chair (Mr. Garfield Dunlop): Pardon me. Excuse me a sec.

Interjections.

The Chair (Mr. Garfield Dunlop): Excuse me just a second, here. We want to make sure we get this right.

Ms. Forster, again.

Ms. Cindy Forster: So that this question be now put.

The Chair (Mr. Garfield Dunlop): With that, Ms. Forster, I know what you're saying, but I believe that, in as far as the actual motion—so we have that opportunity to debate. We've done it a number of times in other committees. So I'm not going to call the question right now. I ask for further debate if anyone has further debate on it.

Mr. Rob Leone: I do.

The Chair (Mr. Garfield Dunlop): Okay, Mr. Leone.

Mr. Rob Leone: Well, Mr. Chair, I'm not sure what to think of the proceedings today. I would encourage members of the committee who are from the Liberal and NDP caucuses to speak up on this particular issue of why they don't want to further deliberate on this particular piece of legislation. Why don't they want to open up discussions and consultations with other groups?

I just find it amazing that on a bill that is supposed to be about negotiation, compromise, a to and fro, a healthy exchange—that on the very request of opening up this process to more groups, there's silence. There are hard-and-fast positions. There's no compromise. There's no debate. I find it passing strange, Chair, that on the very bill about negotiation, no stakeholder, no member of the committee outside the PC caucus members—

Mr. Vic Dhillon: Chair?

The Chair (Mr. Garfield Dunlop): Excuse me a second. A point of order.

Mr. Vic Dhillon: Can Mr. Leone get back to what we're discussing?

Mr. Rob Leone: I am.

Mr. Vic Dhillon: The amendment.

The Chair (Mr. Garfield Dunlop): Try to stick a little more to the motion itself.

Mr. Rob Leone: I am happy to do that, Chair.

As I was saying, I just find it very interesting that no one else is speaking on this particular motion, nor the amendment, and I think that that is of interest. I think the public would be interested in knowing that the only people standing up for parents are the PC caucus, and I think that is certainly an agenda that is speaking loud and clear today by the members of this committee's unwillingness to further open the debate.

I would encourage the stakeholders who are spending the time here today to be with us to talk to the members of this committee—you can talk to us; you can talk to all the other caucuses as well—and just say, “For the sake of getting this bill and moving this process forward, just give us some public hearings.” I know that many of the stakeholders present today are experts at pressure tactics who can do exactly that. I would encourage those stakeholders who are concerned that this isn’t moving forward to lay the blame exclusively on members of this committee who aren’t willing to debate why they don’t want further public hearings on this particular motion, this bill and this amendment.

I have to say, looking at the motion itself, Chair, that I preferred the motion that we were debating before. I think that motion was very clear in its intent, which is to provide enough time to give members of society who might be interested in this particular piece of legislation the opportunity to come forward. That’s why we suggested, I believe, as our previous amendment, the dates of March 19 and March 26 for public hearings.

We appreciate that members of this committee want to move forward on this, which is why we proposed two additional hearing dates the week following March break, on Tuesday, March 18, from 3 p.m. to 6 p.m., and that the committee sit for its regular scheduled meeting on March 19, from noon to 3 o’clock, in order to shorten the time frame, with the hope that it would then make it more amenable to members of this committee to pass and to actually engage in public hearings.

I would suggest that members of this committee should see this as a sign of good faith, that we move this particular amendment to at least get public hearings completed by March 19, which I believe would serve the purpose of moving this bill further than waiting until March 26. We’ve moved from our previous position to shorten that time frame. We’d still have two public hearings, but we would also include the Tuesday for one of those days, so that we would be done on the 19th of March. We’re trying to come halfway here with members of this committee to understand that.

My question, perhaps to the Clerk, on this particular issue is that “the committee shall meet on March 25 and 26.” I wonder if it would be possible to offer a subamendment to at least put times on those dates so we know the time frame by which we would do that. Am I able to move a subamendment?

The Clerk of the Committee (Mr. Trevor Day): Yes. We’ve got a motion on the floor that’s an amendment to the motion. We can have one subamendment that you can offer.

Mr. Rob Leone: All right, Chair. I would then move a subamendment—

The Chair (Mr. Garfield Dunlop): The 19th is already set.

Mr. Rob Leone: The 19th is set, but the 25th and 26th are what I’m looking at.

The Chair (Mr. Garfield Dunlop): With the 26th, I believe, we have our set times.

Mr. Rob Leone: So I would add, after “March 25,” “from 3 to 6 p.m., and that the committee meet for its regularly scheduled meeting on March 26, 2014.”

The Chair (Mr. Garfield Dunlop): Does everyone understand what he’s saying with the motion?

Mr. Bas Balkissoon: We’re okay with it.

The Chair (Mr. Garfield Dunlop): You’re okay with that clarification.

Are you okay with that?

Ms. Cindy Forster: No, I didn’t quite get it.

The Chair (Mr. Garfield Dunlop): Would you like a fresh copy with this new amendment in it?

Ms. Cindy Forster: Or he could just say it again. I’m happy to—

The Chair (Mr. Garfield Dunlop): Just say it again. If you could just repeat it.

Mr. Rob Leone: I hope I don’t make an error in the repetition here.

The subamendment would insert after “March 25” the words “from 3 to 6 p.m., and that the committee would meet on its regularly scheduled meeting on March 26, 2014.”

Maybe for my clarity, I’d like it in writing. Is that possible? I haven’t written it.

The Chair (Mr. Garfield Dunlop): You can if you want. Do you want it clarified?

Mr. Rob Leone: I would prefer to make sure that I write in that subamendment.

The Chair (Mr. Garfield Dunlop): A five-minute recess while you get that redone.

The committee recessed from 1349 to 1356.

The Chair (Mr. Garfield Dunlop): I call the meeting back to order. I’m going to ask Mr. Leone to read it one more time, and then we’ll have debate on the amendment.

Mr. Rob Leone: I move that the amendment be amended by inserting, after “March 25,” the words “from 3 to 6 p.m., and at the committee’s regularly scheduled meeting time on” and then include the words “March 26, 2014.”

The Chair (Mr. Garfield Dunlop): Would you like to explain that any more, exactly what you’re trying to do? And then we’ll debate on the amendment.

Mr. Rob Leone: I have debate on the subamendment, if I can.

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Rob Leone: Do I have debate on the subamendment?

The Chair (Mr. Garfield Dunlop): You can make comments on your amendment.

Mr. Rob Leone: Yes, okay. That’s what I’d like to do.

Anyway, Chair, I moved the amendment to an amendment to insert some time for the purpose of providing some clarity on exactly what the time frame should be for, I believe, clause-by-clause that would take place on March 25 and March 26, 2014. The reason, Chair, that we have to provide that clarity is that I know that if we pass the amendment without the subamendment, what we

would be doing is opening up clause-by-clause for an undefined period of time. I believe that, in order to fit what I am sure is a busy time of year for other members of this committee, to get that schedule cleared for those public hearings, it's important to define the timeline provided.

For the time on Tuesday, March 18—the time starting at 3 p.m.—the reason for having that subamendment to the amendment at 3 p.m. on the 25th of March is because, of course, the 25th lies on a Tuesday. As it falls on a Tuesday—we allot on our parliamentary calendar time for caucuses to meet from noon to 3 p.m. every Tuesday. Having said that, it's important to understand—I actually quite enjoy our caucus meetings; it's the best time of the week for us—that, considering what our legislative calendar is and what it consists of, there is some time to narrowly define that part as well.

We've suggested 6 p.m. because 6 p.m., of course, is the time that the Legislature rises at the end of the day. I know that all members have various commitments during their calendar while the Legislature sits, and many members allot some time for attending events, returning phone calls, writing emails and preparing for the next Legislative day after 6 p.m., and therefore it's quite important that we consider that as well. That's why, Chair, we haven't talked about extending that time to, say, 7 p.m., 8 p.m. or 9 p.m. and beyond: simply because a lot of members I know utilize that time for matters they seek to tend to.

I know, as well, that a lot of the members, particularly on this committee, who may be from Toronto, do return back home to their own homes in their ridings close to Queen's Park, at which point we have to allot them time to commute back and forth.

The challenge of going at a time outside of from 3 to 6—of course I've mentioned that caucus meets between 12 and 3, but we should note that in the morning we have a pretty full parliamentary calendar as well, where we sit in the Legislature from 9 a.m., and question period begins at 10:30. So there's not a whole lot of time to get into the nitty-gritty of clause-by-clause review of the legislation in the morning. I think it's important to understand, when we're debating this particular subamendment, that we take into consideration the times that are allocated according to the parliamentary calendar.

I know the member from Prince Edward-Hastings is a very busy member, as am I. I know that we're both in here bright and early in the morning, and we are here quite late in the evening. We realize that members of the other caucuses may be as busy as we are, but certainly not more, of course. I don't think that that's quite possible. But that's important to understand.

The reality, too, Chair, is that this is a Tuesday. We're meeting here again on Wednesday. I think that there are some challenges, of course, with compacting all of this in succession. But, again, I realize that folks want to move on and proceed with this particular piece of legislation by 3 p.m. on March 26. Hopefully, we can review some 70-plus amendments to this legislation that have been in

discussion for, well, I guess, months. That's what the minister has suggested, and I can't understand why we have 70 amendments, given that amount of time. Hopefully, Chair, when we get to clause-by-clause, there is adequate time associated with that.

In return for understanding the precious nature of and the sensitivity that all the other parties have with this particular piece of legislation, it's important to also acknowledge that we are trying to achieve our own goals. I think it's important for members of this committee to understand that we are in the process of identifying a couple of concerns with the piece of legislation, one of which we've written to the ministry about. But the other, which we're debating right now, is how much time we should allot for public hearings, which the amendment clearly outlines, and how much time we should allot for the clause-by-clause, which the amendment did not define. So that's why we've proposed this subamendment to talk about—and perhaps understanding so the stakeholders can come in, and they know what our parliamentary calendar is like, to be able to be present if that's their decision, if that's what they'd like to see. I think we owe it to the committee to consider the subamendment and move forward on that basis.

On the subamendment, Chair, I think I've explained why I wanted to define the times for clause-by-clause. Again, I realize that we have more than 70 amendments that this committee is going to consider. I hope that the committee understands that we need to identify and narrow down those times so that we're clear, not only to members of this committee but also to interested parties who want to come and talk about the clause-by-clause process, to narrow down exactly when we're going to sit in this committee and to deliberate on matters which we all consider very important.

With that, Chair, I entertain further debate on narrowing the time to between 3 p.m. and 6 p.m. on Tuesday, March 6, and from noon to 3 on Wednesday, March 26.

The Chair (Mr. Garfield Dunlop): Thank you, and I'll get to more debate in a second. I just want to make sure we get a clarification on the clause-by-clause: Are you saying, in this motion, that you're trying to end clause-by-clause on the 26th?

Mr. Rob Leone: No.

The Chair (Mr. Garfield Dunlop): Because with 70 amendments, we could go beyond the 26th, you're aware of that? Because we haven't got direction from the House. Am I correct on that?

Interjection: That's correct.

Mr. Rob Leone: I realize that.

The Chair (Mr. Garfield Dunlop): All right.

Mr. Rob Leone: So we're both clear.

The Chair (Mr. Garfield Dunlop): So everybody understands that. Okay.

Further debate on this amendment? Mr. Smith.

Mr. Todd Smith: Thanks, and that was actually a point that I was going to make, Chair: that there is no definitive end date here; this is open-ended so that, when we proceed through the clause-by-clause portion of this,

we have the ability to make sure that we include all of the amendments that we need to get to in the clause-by-clause portion of this.

This is a very sensible subamendment that has been made by my colleague Mr. Leone, just to clarify, because there are many individuals, of course, who don't follow the legislative calendar the way that we do. Some days we even get tripped up on that. I think it's very important that we do include the hours that the committee will be meeting. The other thing to keep in mind is that Tuesday is not typically a day that's allotted for this committee, the leg assembly committee, to meet here at Queen's Park. The normal meeting time is, of course, Wednesdays from noon till 3.

I believe now that that has been clarified—and also for the purpose of advertising so that stakeholders are aware when we'll be meeting, that it is clear that it will be from 3 till 6 in the afternoon, that we are open for business here in this committee anyway and discussing the relevant amendments that we'll be faced with on Bill 122, noting as well—and it's important to note—that caucus does meet on Tuesdays. Both the government caucus and the opposition parties have their caucus meetings from noon till 3, so it's important, I believe, that we do not miss the opportunity to participate in our caucus meetings, which are so important.

I also just want to point out, again, that it's very important we meet in the week of March 18 for the purpose of public hearings and that it is clear that on the Tuesday, the hours are from 3 till 6 for public hearings, and then the committee is also going to sit for the public hearings during the regular time the next day as well, which is from noon till 3. It's not stated in the subamendment that we will be meeting from noon till 3; however, I believe it is evident that that is the regular meeting time for this committee, so there shouldn't be any confusion when it comes to the meeting time on Wednesday, March 19.

This is a very sensible subamendment that has been put forward in just ensuring that those who will be participating in this process will be very clear on the times that we will be meeting. As the original motion that I moved states, there were no times allocated for when we would be meeting on March 25. So it's a good subamendment to make to that motion, just to include the times on there so that everybody is aware of when the committee will be meeting to—and again, those dates are just the first two days that clause-by-clause will be taking place. The two previous days, as it stands right now, the 18th and the 19th, are committed to public hearings.

We're really focused on ensuring, again, that we have the public input that we should have on this committee and that we aren't being railroaded in this process—not just us but I mean the stakeholders who would like the opportunity to speak to us. I believe it makes sense to have both of those days available for public hearings. Again, if those slots aren't filled up by participants in the process, then we could potentially move earlier to clause-by-clause, but as I've stated several times here today, I know there is interest in appearing before this committee

in the public hearing phase. If we can do so, from Tuesday, March 18, from 3 till 6, for public hearings; and then also state that our regular meeting time, Wednesday, from noon until 3, is available for public hearings; and that March 25, we move from 3 p.m. to 6 p.m.; and the 26th would be the regular meeting time, from noon till 3, for discussing the clause-by-clause portion of this. Again, for advertising purposes it would make sense that we put all of the times into this motion and ensure that everybody is perfectly clear on where we stand on this issue.

This is an important motion. Again, I would encourage the members of the government—the members on the government side and the members of the third party—to simply open the doors and allow public consultation and public hearings. All we're after in the PC caucus is the opportunity to hear from principals, parents and parent councils and give them the opportunity to speak to us at the committee in the times that have been allocated in this subamendment, and ensure that the public voice is heard so that we can ensure that we're getting this bill right. Bill 122 is a very important piece of legislation. We just want to make sure that we get it right and that we consult everybody who needs to be consulted on this piece of legislation that has been put forward by the government. Thanks, Chair.

The Chair (Mr. Garfield Dunlop): Okay. Further debate on this amendment to the amendment?

Mr. Peter Tabuns: No.

The Chair (Mr. Garfield Dunlop): Okay. I'm going to call the vote on the amendment.

Mr. Rob Leone: Can we call a 20-minute recess, Chair?

The Chair (Mr. Garfield Dunlop): Pardon?

Mr. Rob Leone: A 20-minute recess before the vote?

The Chair (Mr. Garfield Dunlop): Okay. A request for a 20-minute recess from the official opposition. Be back at 2:32.

The committee recessed from 1412 to 1432.

The Chair (Mr. Garfield Dunlop): I call the meeting back to order. The first order of business is voting on the amendment to the amendment. That's the amendment made by Mr. Leone.

Mr. Rob Leone: A recorded vote, Chair.

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Rob Leone: A recorded vote.

The Chair (Mr. Garfield Dunlop): A recorded vote.

Ayes

Leone, Smith.

Nays

Balkissoon, Crack, Dhillon, Flynn, Forster, Tabuns.

The Chair (Mr. Garfield Dunlop): The amendment to the amendment is defeated.

We will now vote on the—

Interjection.

The Chair (Mr. Garfield Dunlop): Further debate on the amendment?

Mr. Rob Leone: Chair?

The Chair (Mr. Garfield Dunlop): Mr. Leone?

Mr. Rob Leone: Well, thank you, Chair. I'm kind of disappointed that the amendment to the amendment didn't move through so that we could provide greater clarity to everybody, both the committee members and the stakeholders who are with us today, about when we would potentially be meeting on March 25 and 26, so that they could organize themselves and their calendar.

Having said that, I still think that the amendment that was proposed by my colleague the member for Prince Edward–Hastings, Mr. Smith, is appropriate in the sense that we are looking for further public hearings.

I want to be very clear: There is a process outlined in this Legislature where we have public hearings. As my colleague had suggested, we have five minutes of presentation and three minutes per party to ask questions. I know there were a good number of delegations who came forward and who sat right in that chair to my left, made their deputations and ran out of time. There were more things in their presentation that they wanted to get to that they simply weren't able to do. I would suggest that that does show the evidence that we simply did not allocate enough time for public hearings.

I know that we've been talking all afternoon on further public hearings on Bill 122. We're suggesting that parents want to come, and other stakeholder groups. But there is a potential that there are some items that other delegations have made that they didn't get to and that they wanted to speak about. I think that is important to acknowledge as well, that there might be an opportunity for some of those folks to elaborate on some of the thoughts and ideas, and for us to have the opportunity to further question some of the items that we're going to be debating.

The package of amendments that are brought forward, as has been mentioned time and again today, number well over 70, and that is a huge amount. But I think it would have been more fruitful to have a more thorough rationale for why some of these amendments were being requested, by the groups coming forward.

I do want to emphasize that we sent a letter to the minister with a request that was made by one of the presentations with respect to extracurricular activities. That was a point and perspective that was brought to this committee that we weren't able to thoroughly analyze or ask questions about. I think the presentation that was given offered us something different and dynamic about where we could go with this potential bill. In the course of that presentation, we were reminded that we could open the door to talk about, particularly, extracurricular activities. That is a point that we think is important for parents. They want to ensure that their basketball, volleyball and football seasons aren't going to be cancelled, that choirs aren't going to be muted, that extra after-school help is still going to be provided, that a range of activities is part of a wholesome, enriching educational

experience for students. That, I think, is the point of what my letter to the minister suggested: If we come to an agreement on one amendment, we have the potential to look at and expedite the process which we're going to go through.

Unfortunately, the minister has retorted in a negative way, and that's certainly her objective and her prerogative, but it isn't in the spirit of trying to move this process forward. I believe that if the minister responded at least somewhat positively, there could have been a dialogue established between ourselves where we would see a process put in place where this particular piece of legislation would move through clause-by-clause, at least even start clause-by-clause, today, and move forward on that particular basis. The reality is that her tone in her letter is not one where we can expect to have any further discussion on our perspective, which is that we would like to protect extracurricular activities for families in the province of Ontario.

I'm kind of mystified by that. I know that we in the Ontario PC caucus want to stand up for families and students who have placed a high value on their extracurricular activities, and we are dismayed that we don't have a willing partner to help us support that. I haven't reached out and written to my colleague from Toronto–Danforth, who is the education critic for the New Democratic Party, because I wanted to hear the minister's response first, but I'd be curious to know what the member for Toronto–Danforth has to say about that particular thing. I'm going to, hopefully, endeavour to have a conversation with him at a later time.

That said, I'm hopeful that the wishes of our parents are heard and we talk about how we can protect extracurricular activities, because that's what I think a lot of parents are telling us to do. At the end of the day, we're left with a process where those parents can't even come forward to raise those concerns. It would be nice to measure and to have some sense of how widespread that sentiment is. I know that once we made the letter public, I experienced in my mailbox—in my inbox on my email and in my Twitter feed—there was certainly a lot of interest in the topic. I'm not going to say that that interest was 100% positive because I realize a lot of teachers had some questions or concerns about it, but we wanted to make sure that we put the idea forward, as presented by a delegation to these public hearings, and we're soliciting feedback on the basis of that.

All we're asking is to have a process which all of us can attest to, in order for us to have some confidence that we are doing what our members, our supporters and parents are saying, which is to protect extracurricular activities—at least we're putting that in place in legislation; it could be some take-away for the Ontario PC caucus. At the end of the day, our interest is to protect parents, and we are very much disappointed that there hasn't been any degree of movement from any of the other parties in that regard. I can certainly understand why.

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Mr. Chair, I received a note from a trustee in one of our school boards who writes to me and says that he

caught word that the government has given school board associations hundreds of thousands of dollars for central bargaining ahead of the passage of Bill 122.

Now, I obviously have a lot of questions pertaining to the process where the government has given some money outside the scrutiny of this Legislature to enhance the negotiation process with respect to what might happen if this bill does, in fact, pass. I have some questions about that, because what if the bill doesn't pass? There are some questions and certainly some concerns that are raised.

The Chair (Mr. Garfield Dunlop): Try to speak more to the amendment.

Mr. Rob Leone: The amendment is about public hearings, and what I wanted to suggest, Chair, is that in the process of having public hearings, those are the kinds of questions I think are valuable to ask deputants. If individual trustees are coming forward with information for our benefit, that might have an effect on what's happening with this process. I think we have an obligation to thoroughly debate this.

I had a meeting yesterday with another education stakeholder, People for Education, which is a well-known stakeholder in this process. I had asked if they had even known that Bill 122 was in committee and received public hearings. The reality is that an organization that's so vested in the education system did not, in fact, know that public hearings had actually already taken place.

It speaks to me of the failure of the government to properly solicit feedback from a wide spectrum of people. I'll leave it up to People for Education to talk about whether they would have in fact come, but the reality is, my point is, that they didn't actually know about the public hearings at all. I have some concern about that, because they are stakeholders who obviously examine what we are doing with a fine-toothed comb.

In addition, my colleague talked about the principals. I've spoken with principals on an ongoing basis. I know the member from Toronto-Danforth and I were at a public forum with the Ontario Principals' Council, which I thought was a fruitful exchange of ideas. I know that they have concerns that they want to bring forward, and this might have been—and, again, there's a potential for their input on whether this process might have been an avenue for them to bring some of their issues to the attention of members of the Ontario Legislature and to the government.

So, Chair, I would say that through the course of public hearings, which is what we're talking about, and putting two days of public hearings on the table for Tuesday, March 18 and for Wednesday, March 26, we simply have not done a thorough job of soliciting information from relevant stakeholders, stakeholders who have a desire to speak out on matters of education.

Mr. Smith, the member for Prince Edward-Hastings, and myself have spent a great deal of time explaining today to members of this committee that we have, in fact, tried to shed some light on members of this committee, on some of the issues pertaining to legislation. Some of the things that people have been saying to us, information

that might be brought forward by other groups of individuals who want to talk about certain issues with respect to education and the process—especially because the collective bargaining process has been so crucial and has been held up as the place where public policy in education is being thoroughly negotiated.

We would like to see, of course, that education policy remain in the domain of the Legislature to the greatest extent possible. We have certainly outlined and announced that extracurricular activities are one of those areas where we think we can actually provide a degree of assurance to the public that their MPPs—each one of us around this table—are in fact listening to them and are prepared to step up to the plate to create legislation that is meaningful and purposeful to provide an education system that they want for their children.

That, again, Chair, is the reason why we have spent a great deal of time today talking to the committee and, I would even say, begging the committee to even consider that we should have opened this process up to public hearings. What we're debating here, for members that are here watching and witnessing this debate today, is the fact that the government had decided that it wanted to move this motion to basically fast-track, on a week that the Legislature is not sitting, clause-by-clause review of this legislation. We wouldn't have been here today talking about public hearings had this motion not come to the floor. In fact, if this motion didn't come to the floor, clause-by-clause hearings would have started today.

So you ought to know that the reason why we are here and not talking about the amendments that you've brought forward is simply because the government decided to table a motion that tried to fast-track this debate. I wouldn't have been able to ask for further public hearings in the absence of this particular motion. So I think that they have some explaining to do to all of you. They've certainly taken a lot of your time by trying to fast-track this process that was questionable at best to whether they would have been able to achieve their objectives.

What we're suggesting here is that public hearings, at the end of the day, have been something that we've set up from day one in this process. It's a process that has not—our ask has not been heard, either on the public hearing side or on the extracurricular activities side and protecting those items, because of the lack of negotiations and because of the hard-and-fast positions that have been taken by the government. I'm assuming—although I don't want to speak for the third party—we are at the stage today where we're debating whether public hearings should be part of the process.

So I'd encourage you to talk to your members, to the members of the government and to members of this committee, asking them why we didn't start clause-by-clause analysis of the bill today, which is what we could have done in the absence of this motion. I think they should be explaining that to you in detail.

With that, Chair, I believe I'm going to end my remarks on the need for further public hearings on Bill

122. I'd ask the committee to consider at least providing those public hearings for members of the public that wish to speak on this particular piece of legislation. Thank you.

The Chair (Mr. Garfield Dunlop): Further debate? I'm going to call the vote on the amendment.

Mr. Rob Leone: Let's have a 20-minute recess.

The Chair (Mr. Garfield Dunlop): Pardon me?

Mr. Rob Leone: A 20-minute recess.

The Chair (Mr. Garfield Dunlop): Okay. With a 20-minute recess, at this point, that would mean that the clock would run out on our 12-to-3 meeting today. That would then make the motion by Mr. Balkissoon non-existent, invalid. We will start the clause-by-clause at 12 o'clock on March 19.

The committee adjourned at 1449.

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Mr. Grant Crack (Glengarry–Prescott–Russell L)

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Mr. Kevin Daniel Flynn (Oakville L)

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Assemblée législative de l'Ontario

Deuxième session, 40^e législature

Official Report of Debates (Hansard)

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Journal des débats (Hansard)

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Standing Committee on the Legislative Assembly

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Loi de 2014 sur la négociation
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 19 March 2014

Mercredi 19 mars 2014

*The committee met at 1204 in committee room 1.*SCHOOL BOARDS COLLECTIVE
BARGAINING ACT, 2014
LOI DE 2014 SUR LA NÉGOCIATION
COLLECTIVE DANS LES CONSEILS
SCOLAIRES

Consideration of the following bill:

Bill 122, An Act respecting collective bargaining in Ontario's school system / Projet de loi 122, Loi concernant la négociation collective dans le système scolaire de l'Ontario.

The Chair (Mr. Garfield Dunlop): We'll call the meeting to order, everybody. Welcome to the Standing Committee on the Legislative Assembly, on Bill 122, An Act respecting collective bargaining in Ontario's school system.

At the last meeting we spent a good three hours debating a motion and an amendment to a motion. I think we've had adequate debate on that and I'd like to go directly to clause-by-clause and section 1—

Interjection.

The Chair (Mr. Garfield Dunlop): I'm sorry, the motion and the amendment that were presented the last time are both out of order today. It's time to go straight to clause-by-clause. We'll start with section 122.

Mr. Rob Leone: Mr. Chair?

The Chair (Mr. Garfield Dunlop): Yes?

Mr. Rob Leone: Can I move that each caucus be given 20 minutes for an opening statement?

The Chair (Mr. Garfield Dunlop): My understanding is that's my decision. You have every right to have that opening statement under the first section we'll start with.

Mr. Rob Leone: So are we able to move the motion?

The Chair (Mr. Garfield Dunlop): I would say no.

Bill 122, An Act respecting collective bargaining in Ontario's school system: section 1. Is there any debate on section 1? Mr. Leone?

Mr. Rob Leone: Well, thank you, Mr. Chair. I was looking forward to the opportunity to have an opening statement today, but obviously we're stuck with clause-by-clause on this particular piece of legislation. I just want to reiterate for members of the committee what we have been requesting, and that is for some acknow-

ledgement of one request that we've made, which is to include co-instructional activities—that an amendment be made possible by this committee. On seeing that consent by members of this committee, we would then be able to move smoothly through clause-by-clause.

I've once again asked a question in question period with regard to co-instructional activities, and I have to say that I was not satisfied with the answer that was provided to me. I will suggest that this process would move a whole lot smoother had we had the opportunity to discuss and engage in a dialogue with how we can best achieve the goals that we have put forth.

We have made available in our package—in the package of amendments that we've seen—the frame in which we can pursue that, through the advice of the Ontario Catholic School Trustees' Association. In their presentation to this committee, they had made it clear that it was possible to include co-instructional activities with an appropriate definition of those said activities in the legislation, in a proposed amendment.

We have taken a look at that amendment. We have largely respected the wishes of the Ontario Catholic School Trustees' Association in trying to find a way to incorporate that into this piece of legislation. To date, I have not heard whether the government in particular has any interest in pursuing that.

I would suggest once again that there are more than 70 amendments. We actually were delivered another package of amendments today, which contains probably some 30 other amendments, which is an incredible amount of amendments that have been sought given the context of this particular piece of legislation, legislation that we are to understand has been in the works for more than a year.

I want to stress this point, Chair: In the process of going through and crafting a bill, and all the negotiations that certainly had, as the minister has suggested, taken place, why are there so many amendments to this particular bill? What was missing in the negotiation phase in the lead-up to the presentation of that bill? I have serious concerns about the direction of that.

Then the bill was tabled in November, and then we hear that the government was going forward—

Interjection.

The Chair (Mr. Garfield Dunlop): A point of order.

Mr. Bas Balkissoon: Chair, a point of order: Chair, you already ruled that we're going to clause-by-clause. I would ask that you—

The Chair (Mr. Garfield Dunlop): He actually has the opportunity to do up to 20 minutes on any one of the sections.

Mr. Bas Balkissoon: But if he's going to make comments, it has to be restricted to section 1. The member is speaking in generalities all over the place.

The Chair (Mr. Garfield Dunlop): I understand what you're saying, Mr. Balkissoon. The reality is that I didn't allow an opening statement for any of you, so you can all comment for up to 20 minutes on this first section, okay?

Continue, Mr. Leone.

Mr. Rob Leone: I appreciate that. I don't appreciate the interruption, but we are talking about the interpretation and application of a particular piece of legislation, which is obviously relevant to the discussions that we're having here—the fact that we've received more and more requests for amendments that have likely been delivered to the various caucuses through stakeholders, an opportunity to discuss these things.

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This is a pretty dense bill. There are 55 sections of the bill. There are a couple of schedules involved. It's a comprehensive piece of legislation. We have long sought to have open public hearings on these things. The point I'm trying to make here is that in the process of tabling this bill and the likely negotiations that ensued thereafter while this bill was sitting in the Legislature and prior to entering this committee, there were lots of debates and negotiations.

Limited public hearings were sought because the government now claims that those public hearings weren't necessary because they had done all the consultations and negotiations before. In the process of doing that, even with doing that, we have seen that 70, 80, 90, 100 amendments have been proposed with this particular piece of legislation. Those are amendments that we've seen prior to going through the clause-by-clause process. We are now on section 1 of this bill to try to potentially amend section 1 of this bill, which effectively talks about the interpretation and application of that, and section 1 is obviously going through what this bill is supposed to be.

I want to suggest that, had the government done its due diligence, there wouldn't be upwards of 100 amendments on this piece of legislation. There wouldn't be any sense of disagreement among the "partners of education." I say that with a quote, unquote because I've long maintained that students and parents are not considered partners when it comes to the legislation being brought forth with this government. That has been a long-standing concern of mine and one that I think the committee has not heeded in any particular way.

We have to roll our way through all of these amendments, the ones that have been proposed and the ones to be proposed, and that is of particular interest to this committee. This process could take a very, very long time. I don't need to remind committee members that we are able to speak to any section of this legislation. We can propose amendments to any word in this legislation and, in the process of doing that, we're able to speak for 20

minutes, we're able to provide recess for 20 minutes. This has the potential, depending on the amount of agreement on this committee, to drag out for weeks and weeks and weeks.

We have suggested that one way we can move this bill forward is to heed our concerns, our one request, which is to protect co-instructional activities from future job action. For the life of me, I don't understand why we have not received any response to that particular request.

So here we are. We're here commencing clause-by-clause today without any guarantee that extracurricular activities will be protected for students, particularly for parents who consider them as part of the educational experience. In fact, this is something that the Minister of Education herself has suggested as being very important. That's prior to even being the Minister of Education, when she was president of the Ontario Public School Boards' Association, which is an item I brought up during question period today.

The question for committee members then becomes, who's going to stand up for parents and students? Who among us is going to stand up for the people who are contacting us, particularly during the previous job action that commenced about a year ago—pretty much ended about a year ago—where extracurricular activities, sports teams, debate clubs, choir practice, extra help after school and parent-teacher interviews weren't taking place? Who's going to stand up for students and who's going to stand up for parents at the end of the day? I think we have a responsibility on this committee to do that because it's our job.

We hear from these constituents on a day-in, day-out basis. We may not have heard from some of them for a while, because the job action did run full circle at the end of the last school year, but the potential exists for it to come back to do this again. We're in a new collective bargaining season; collective bargaining is about to begin for the next contract. That's what the fall is going to bring.

I've heard from a lot of parents, particularly ones who have kids in sports who are relying upon their last year of extracurricular activities to potentially get scholarships to American universities on the basis of their excellence in sports. I'm prepared to stand up and speak on behalf of them to ensure that we don't get to a place where their season is cancelled, scouts don't come around, and they don't get the scholarships that allow them to pursue post-secondary education in the United States or in another province, or even within our own universities and colleges here in Ontario. Who among us is going to stand up for those parents and those students who are very concerned that come September, in a new collective bargaining season, we have the potential to lose our extracurricular activities?

I would suggest that it's our responsibility as committee members to do what we can to ensure that we have a process in place that everyone agrees to, which is what this bill does. It sets out the parameters, the partners, the role of the government, the role of the school board and

the role of teacher federations at the central table—and the role of the school boards and the role of teaching federation locals at the local level.

Certainly, there are some amendments to flesh out, and I respect some of the points that are going to be made on this. But at the end of the day, what parents seek is some assurance that we're going to be able to provide a framework that works for them. I think it's about time that we stand up as legislators to do essentially what parents are asking us to do, which is to protect extra-curricular activities.

I want every committee member to understand where we're coming from. If it hasn't been clear to this point, it should be clear now. We have a process, an established bill, a piece of legislation the government has put forward, a piece of legislation that has a few problems—as many of the amendments are pointing out—one that I know all members of this committee want to work through, and we could do that in a very expeditious manner if we attempted to work together on sharing our ideas. But at this point, without having acknowledgement that you're about to share your ideas, we have some difficulty accepting that as part of this process.

I want to note, too—I had gone back to previous educational legislation. I remember that in 2000, we had a committee set up to look at public hearings on a bill that was designed to deal with extracurricular activities, Bill 74. I remember that Liberal members of that committee who were going through that public hearing process called the process a sham due to the time allocated to committee members to listen to presentations from those delegations and to ask questions of those who were presenting. I will note that many presentations were brought forward. The time allocated for those public hearings was 30 minutes for both presentation and questions. Liberal members of that committee at that time called that unacceptable and a sham.

Well, do you know what we had here in public hearings on this bill? We had five-minute presentations and three minutes per party to actually ask questions—a total of 14 minutes per presentation. I think, Chair, that we are doing a disservice to families in this province by not heeding their concerns.

Notwithstanding the possibility of not hearing from them, members of this committee have an opportunity to stand up and show up for parents and students in their own ridings and right across the province of Ontario. That's all we're asking. It's a request. It requires a figment of acknowledgement that you're willing to accept that point.

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The Chair (Mr. Garfield Dunlop): You have about another three minutes left in this round.

Mr. Rob Leone: Unfortunately, I have another three minutes, but I have about another 25 minutes of things I could say.

The reality of it is that my great concern is that we are in a position where we're going to go through clause-by-clause without the full benefit of public hearings, but in

the absence of that, we have an opportunity as committee members to do something positive for parents and families and for the partners in education who want a process set up.

This can be a win-win for everybody. This can be a win-win for families; it can be a win-win for the teacher federations; it can be a win-win for the government; it can be a win-win for the school boards, if we work together. For the life of me, I don't understand why we aren't doing that today.

I want to assure parents in my community, and I want to assure parents right across the province of Ontario, that we will do our due diligence in reviewing this piece of legislation. We will examine it thoroughly. We will seek improvements where it falters. We will examine this clause by clause. We will do that with their interests in mind, because at this point it's only the Ontario PC caucus that seems prepared and willing to do that.

I remain disappointed in this process. I remain disappointed in the fact that we weren't able to hear from more delegations. I remain disappointed in the fact that the concerns of parents and students have not been heard. I remain disappointed that members of this committee are willing to sidestep all of their concerns just to get a bill through that may potentially have a severe effect on the provision of co-instructional activities in our schools.

Just to remind committee members, we're talking about sports teams. We're talking about arts committees and councils. We're talking about debate clubs. We're talking about choir practice and music instruction that happens after school. We're talking about helping students who need help after school hours. We're talking about, potentially, instructional tutoring classes that go on after school. We're talking about communication with parents. These are items that I know families are concerned about. These are items that have been challenged by the seeming unwillingness of particularly the government in not trying to move forward with this process.

The Chair (Mr. Garfield Dunlop): You've just got about 30 seconds left.

Mr. Rob Leone: I will end with that, Chair. I think that the point has been made. I encourage all committee members to consider what we're asking for and to ensure that this is a smooth process for everybody involved.

Thank you very much, Chair.

The Chair (Mr. Garfield Dunlop): Thank you very much.

Mr. Todd Smith: Do I have the opportunity, Chair, to—

The Chair (Mr. Garfield Dunlop): I wanted to give each of the other caucuses an opportunity first. Any opening statements or anything like that?

Mr. Peter Tabuns: No comment.

Mr. Bas Balkissoon: No comment.

The Chair (Mr. Garfield Dunlop): I've given the flexibility to talk about anything on your first comments on section 1. From this point on, if you would like to make a comment on section 1, you'll have to stick to section 1. Okay?

Mr. Todd Smith: Do I have that opportunity as well?

The Chair (Mr. Garfield Dunlop): You have the opportunity, but stick right to section 1.

Mr. Todd Smith: Thank you very much. With section 1, this would be a motion that has come from the New Democratic Party—

The Chair (Mr. Garfield Dunlop): Section 1.

Mr. Todd Smith: Section 1. Where are we here, sir?

Mr. Rob Leone: No amendments. Just the section.

Mr. Todd Smith: Oh, right here. Okay, I apologize.

This is the “Interpretation and Application” section that we’re talking about:

“Interpretation

“1(1) Expressions used in this act relating to collective bargaining have the same meaning as in the Labour Relations Act, 1995, unless a contrary intention appears.

“Same

“(2) Expressions used in this act relating to education and the school system have the same meaning as in the Education Act, unless a contrary intention appears.”

The Chair (Mr. Garfield Dunlop): Have you got comments on this section?

Mr. Todd Smith: Do you have any comments?

The Chair (Mr. Garfield Dunlop): No, he has had his 20 minutes. It has to be you.

Mr. Todd Smith: Oh, sorry. I’m going to have to take a look at that. I was expecting to make some opening comments as well, Chair, on where we’re at today and the fact that we haven’t had the public consultations either. I would also like to speak about some of the comments that were made in regard to the co-instructional activities and the extracurricular activities, the reason why we’re here and why we intend to continue to try and push for that and, obviously, have parents involved in the process. Do I have the ability to speak to that?

The Chair (Mr. Garfield Dunlop): Well, you have the ability to speak to any one of these sections and you have up to 20 minutes, as long as you stay to the section and talk on the section itself.

Mr. Todd Smith: Okay. “Expressions used in this act relating to collective bargaining have the same meaning as in the Labour Relations Act, 1995, unless a contrary intention appears.”

I’m obviously concerned that what could happen in this section is that we don’t have the ability to include extracurricular activities when we’re talking about the collective bargaining process. As we do know, the collective bargaining process is expected to begin in the not-too-distant future, so I’m concerned that co-instructional activities may not be included in this section when it deals with interpretation. It is a huge concern. It has been outlined by my colleague, our critic for education, Rob Leone, and it continues to be a concern today. I believe it’s something that the minister, this morning in question period, even indicated is a concern, and it’s something that hasn’t been part of our discussions to this point. It’s disappointing to me that this is such an important part of the school day and the school activities and the school career of young people and that this section hasn’t been

discussed properly. I’m worried that under the “Interpretation and Application” portion of this, we don’t have the ability to discuss things that my colleague has pointed out.

There are so many children in school right now who are looking forward to their graduation. I can tell you that my young daughter is in grade 8 and she just had her graduation pictures taken the other day. They were texted to me, and they look fabulous, by the way, Mr. Chair. She’s a very good-looking girl; she takes after her mother. This is something that we’ve been looking forward to in our family for a long time, and these types of activities weren’t able to continue as a result of what we’ve seen in the past, where extracurricular activities have been held hostage as part of the job action that we’ve seen in the province. These are the types of things that we’re concerned about and that should be included in the language when it comes to the various sections that we’re dealing with.

Unfortunately, what we’ve seen is that, while the Premier continues to talk all the time about the fact that we should be talking with our partners, whether it’s in the education sector or any sector that we’re looking after in the province, that actually isn’t happening. We’ve seen processes like this railroad at times and we haven’t had the input that we’ve needed so that we can make well-educated, common-sense decisions where we have been presented with all of the facts from all of the partners in education. I worry that by rushing through this process the way we have—again, the public consultation process is what I’m talking about, where we didn’t get to hear from major, important stakeholders in the education sector—things will be held hostage when it comes to future job action related to the collective bargaining process.

“Interpretation and Application”: “Interpretation” leaves a lot to be interpreted. Right? It certainly does. I mentioned the fact that my daughter is in grade 8 and she’s looking forward to her graduation. There are so many other young people out there who are looking forward to their track and field season that is just about to begin as well, and eventually, the weather is going to warm up. Eventually, we are going to get outside and the snow and the ice will melt away from our track and field facilities. Soccer seasons are going to start up. These are the types of things that people are looking forward to and the reason why they enjoy the school experience and the education experience so much. I can tell you that this is a concern, not just for parents out there and students; it’s also a concern for our educators who are out there. Many of them want to ensure that these extracurricular activities, these co-instructional activities, are included in the job description of our educators as well, because they don’t want to be put in a position where they feel that they have to choose between their students and their job, or their association or federation or whatever it might be. It’s a very difficult situation for a lot of our educators to be put in, so I believe that if we made it very clear when we’re crafting legislation going forward that we include

co-instructional activities in the daily activities of our educators in our schools, that way we can have a fulsome, wholesome experience that our students, our parents, our teachers, our principals and all those who work in our school system can count on and rely on, on a daily basis.

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I would just like to say, as well, that in the crafting of this bill, and I believe while it occurred over the period of almost a year, it does beg the question—there are a number of pages included in this bill, and we have two stacks of amendments here that we're dealing with: Who was consulted on this bill?

As I say, the Premier talks all the time about consultations and working with our partners, and when you have this many amendments—and we haven't consulted with many of the stakeholders in our education system—what is wrong with this bill? We see this often in the Legislature: where a bill will come before the Legislature and it's a lot thinner than this. This is probably one of the more comprehensive bills that we've actually seen.

The Chair (Mr. Garfield Dunlop): Just keep on topic with your questions.

Mr. Todd Smith: Yes—sorry—absolutely.

We were talking about the interpretation and application process. I'm just wondering: If we're talking about interpretation, what are we actually interpreting here? We have stacks and stacks of amendments, so obviously it has been a bit difficult for those who have made these amendments to interpret what's actually in this. It's many, many pages—28 pages, as a matter of fact, 55 sections in here—and it begs the question: Was everyone who should have been consulted on this actually consulted, and why do we have so much concern? There are so many pieces of legislation that come before the House that are rather flimsy pieces of legislation, and they may be one or two pages. This is obviously 28 pages—it's fairly significant—but there are a lot of issues that folks are taking with this document.

Our intention as members of the PC caucus is to make sure that we get everything right in these various sections that we're talking about, ensuring that this bill is the best that it possibly can be when it eventually leaves this room. By not including our many stakeholders in this section and in this process, perhaps we are going to fall short.

This section related to interpretation: We should keep in mind that the Labour Relations Act is a very, very big act, and it's something that needs to have careful consideration as well when we're applying aspects of the Labour Relations Act to what we're discussing here today. It involves job action. It involves the various types of job actions that can take place: It involves strikes; it involves, obviously, work-to-rule; and the various options that are out there when the collective bargaining process is under way.

When we're talking about the School Boards Collective Bargaining Act, we have to make sure that we're getting all of these sections right; that we're getting each and every piece of this properly examined.

There are obviously many concerns when dealing with this piece of legislation. We've talked about work-to-rule at great length, and how we don't believe that extra-curricular activities should be held hostage—that our students shouldn't have to pay a price. Ultimately, that's what we've seen in the past: that the biggest losers in these types of situations aren't the employees or the school boards; they are, in fact, the students who are hurt by this. That's why we have to make sure that we get it right, and why we are working with all of our partners and stakeholders in getting the collective bargaining process correct: so that we don't have these types of events occur in the future.

There are so many aspects that are so important, and obviously we have many, many sections here that we'll be looking at as part of the "Interpretation and Application" portion of this. I know we'll have some comments from the other parties, as well, when we hear from them about why this is so important.

Again, this relates to the Labour Relations Act from 1995. It's a very big act, and it involves so many important issues when it comes to our work environments and our school systems.

I think the one thing that we should keep in mind when we're looking at this is that the school system is a unique type of situation. It's very different from industry or other types of sectors that we deal with when we're talking about the Labour Relations Act. The province has a duty to provide a public education system that our students can rely on to receive an education that's going to allow them to be successful, not just here in Ontario but on the world stage. So it is a very unique type of situation that we're talking about within the Labour Relations Act—the fact that our schools need to be treated a little bit differently. We have to make sure we're getting that right, so that we don't impact learning activities and the ability for our students to ensure that they're getting the best education possible each and every day.

I think what we have seen in the past is, when we don't get things right in the collective bargaining process, our students are the ones who suffer. They suffer not just in the classroom, but on the playing fields as well. That's why we've continued to try to have public consultations focus on extracurricular and co-instructional activities that aren't just focused on playing fields, but also graduations, school trips, debate clubs, school choirs and bands—they're all affected when we don't get things right. We just want to ensure that when we do get around to debating the various portions of this act, we're doing everything that we can to make sure that we get things right.

Obviously, we believe that we have to work with all of our partners. I believe that the last time we were speaking about this, we didn't have proper input from the principals' councils; we didn't have proper input, obviously, from parents and students who could potentially be involved in this process. When you are crafting a bill, it's our belief that we should be including all of these very important partners in this discussion.

Having said all that, I would like to pass it on to whoever might like to bring comments.

The Chair (Mr. Garfield Dunlop): Further comments on the bill before we vote?

Mr. Rob Leone: I'm wondering if the legislative lawyer could answer this question. This bill, in terms of this section, talks about the relationship between the Labour Relations Act and Bill 122 and the processes being set up. My question is, to what extent do Ontario Labour Relations Board decisions affect the legislative process in any particular way?

Ms. Laura Hopkins: This is a matter of substantive law that is the law of collective bargaining. I think that perhaps ministry staff may be in a better position to describe for you the impact on the functions of the Labour Relations Board that this act may have.

Mr. Rob Leone: Thank you.

The Chair (Mr. Garfield Dunlop): Is anyone here from the ministry?

Mr. Tim Hadwen: Where would you like me to be?

The Chair (Mr. Garfield Dunlop): Just sit there. Can we get your name, please?

Mr. Tim Hadwen: Tim Hadwen with the Ministry of Education.

The Chair (Mr. Garfield Dunlop): Please proceed.

Mr. Tim Hadwen: Under the legislation, where there are decisions that need to be made for the purposes of moving the collective bargaining forward or resolving other issues, the Labour Relations Act commonly uses the Labour Relations Board to make those decisions. This act, where there are decisions of that kind to be made, does the same thing: The Labour Relations Board is also used when there are issues that arise under the act that need resolution by a third party.

Mr. Rob Leone: May I ask—

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Rob Leone: If there were prior decisions that involved labour relations with respect to what we're talking about, strike action or job action, are those decisions that have been rendered in the past with the Ontario Labour Relations Board considered when crafting this particular piece of legislation?

Mr. Tim Hadwen: Yes. When it makes decisions, the Labour Relations Board considers its previous decisions, and the act has been put together by folk having regard to the entire legal context, other statutory provisions and decisions by the Labour Relations Board and the general law of the land.

Mr. Rob Leone: Does this bill in any way contradict prior decisions that might have been rendered?

Mr. Tim Hadwen: I don't think so.

Mr. Rob Leone: Okay. I was just curious about that. Those are the questions I had, Chair.

The Chair (Mr. Garfield Dunlop): Okay. Is everyone ready to vote on the bill?

Mr. Bas Balkissoon: On section 1.

The Chair (Mr. Garfield Dunlop): Sorry—on the section. It's going to be a while before we get to the bill.

Mr. Rob Leone: I'd like a 20-minute recess.

The Chair (Mr. Garfield Dunlop): No more debate? Okay. A 20-minute recess, and we'll vote on section 1 when we get back.

The committee recessed from 1243 to 1303.

The Chair (Mr. Garfield Dunlop): Okay. We're now going to vote on section 1. All those in favour of section 1? All those opposed? Section 1 carries.

We'll now go to section 2 and amendment number 1, an NDP amendment.

Mr. Peter Tabuns: Withdrawn, Chair.

The Chair (Mr. Garfield Dunlop): Amendment 1 is withdrawn?

Mr. Peter Tabuns: Withdrawn.

The Chair (Mr. Garfield Dunlop): Any further questions or any debate on section 2?

Mr. Rob Leone: Excuse me. I'm sorry. What just happened there?

The Chair (Mr. Garfield Dunlop): The NDP withdrew their motion on section 2, and I'm asking if there's any further debate on section 2.

Mr. Rob Leone: Sure. I'd like to debate.

The Chair (Mr. Garfield Dunlop): Mr. Leone.

Mr. Rob Leone: I'm just trying to read very quickly that NDP motion that they tried to move but not move anymore, to see if—

Mr. Peter Tabuns: It's withdrawn.

Mr. Rob Leone: Sorry?

Mr. Peter Tabuns: It's no longer on the table.

The Chair (Mr. Garfield Dunlop): Mr. Leone, you have to speak to the actual section at this point.

Mr. Rob Leone: I can speak to the section?

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Rob Leone: Okay. I'm also able to amend the section as I wish. Correct?

The Chair (Mr. Garfield Dunlop): Yes.

Mr. Rob Leone: Thank you.

Chair, this is the definitions section of the act. I find the definitions section of any legislation to be very, very interesting, in particular because there are so many words that are listed in the act itself, that a few of them are selected as requiring further definition.

I'm very amused that the first one on this list is "central table," which is a term that is used in section 23. I'm not quite sure why, in subsection 2.(1), "In this act, 'central table' means a central table established under section 23," when section 23 of this act goes on at great length to explain exactly what the central table actually is.

There's an interesting part of this particular piece of legislation that seeks to establish the central tables. As I understand it in section 23, those central tables are—there are four of them that have been proposed by this government bill, this piece of legislation.

I want to state that one of the interesting elements through this process of clause-by-clause is that we're going to understand some of the problems with the legislation that has been written herein. I was just at the Association des enseignantes et des enseignants franco-ontariens conference in Ottawa last week, where they had

explained and expressed their desire to me not to have four tables, but to have three and to amalgamate those tables into one.

It just goes to show the point that myself and my colleague from Prince Edward-Hastings, Mr. Smith, were stating in the discussion surrounding the previous section of this piece of legislation: that thorough consultations would have made a very simple change, which is to essentially amalgamate, or make one, the two distinct French school system tables, the public and the Catholic.

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For the life of me, it just seemed like a very simple request for central table, that they be tied together; and yet in the legislation, we see outlined in section 23, which elaborates on the definition that we're talking about here, that there are four central tables, in essence, that are going to be established. Did they not talk to the AEFO? Did they not understand the concerns about having different tables and what they would mean? It speaks again to the desire for us to have—we're questioning, certainly, the crafting of this legislation, with particular reference to the terms that are being established here.

I know we're going to section 23 a little later, so I'm not going to talk too much about what's in it, but the very fact that we are seeing this definition in subsection 2(1) of this act, even though section 23 elaborates in further detail—I have some questions about that. There is certainly some degree of asking why, in effect. I'm hoping that when we have commentary, particularly from the parliamentary assistant, on this legislation, he perhaps might want to answer why the central table portion is elaborated in section 23, and now we're seeking to define it in subsection 2(1). That is the first definition, and there are certainly questions that can be asked with respect to that.

The funny thing about the second term that they're trying to define here is this concept of "central terms." I think a lot is going to be said over the course of clause-by-clause hearings on what these "central terms" will actually entail. "Central terms" means—as it suggests here—"in relation to a collective agreement, the terms and conditions of the collective agreement that are determined through, or in connection with, central bargaining, if any," which is interesting, because the possibility, I think, written in this definition is that there may not be any particular central terms that are part of the bargaining process.

We are going through this process of analyzing Bill 122 with the explicit purpose of having central tables. That's what the process is trying to define, because prior to the negotiations that happened decades ago, it was always a local school board with a local teaching federation that were in negotiation with each other. Now we're setting up this apparatus of a central table. We have to discover what these central terms may be, if any. It's central to what we're discussing in this particular piece of legislation. So what might these central terms

look like? What might be the negotiating aspects that these central terms might look at?

I would suggest that one of those central terms might be the length of the contract that's being negotiated. Of course, this legislation spells out who exactly—the minister, in terms of her discretion on whether this is going to be a two-, three- or four-year agreement, will certainly be challenged in the course of clause-by-clause, as we've heard several presentations during public hearings allude to the fact that the discretion of the minister in this negotiation is key. Obviously, what I assume is the request of certain partners of education is to limit those powers and those concerns. I'll let those who are going to move those motions make their arguments, if they're going to make any. I feel like I'm the only one—myself and my colleague from Prince Edward-Hastings are the only ones who are going to speak to any part of this piece of legislation, even though it's not our own. I find that interesting.

But what are, in fact, the essential terms and what are they supposed to do? I know that, in the course of a negotiation, what this bill seeks to do is to spell out what those terms are, if in fact there are any. I'd be very interested to know what is going to be more specifically contained therein. I am hoping that, again, if the parliamentary assistant seeks to provide some clarity on those items, he will do so when his time comes to speak on this particular section.

We have this apparatus that's being created in this particular piece of legislation: the central table. There's going to be some, I guess, discussion on what those central terms are going to be, subject to the limitations of this legislation. I think what might also be important to discuss at this very same time are what the "local terms" are going to be, which is five definitions below the top: "local terms," which "means, in relation to a collective agreement, the terms and conditions of the collective agreement that are not central terms." The assumption that these "local terms" are going to be subject to local negotiation between school boards and the teaching federation locals is, I think, an understanding that might be presented in this particular piece of this section. But are they in fact so? How is that all determined, the clarity of which is not particularly evident at this point in time?

I think there has to be some understanding that these definitions require perhaps a little bit of beefing up. I will let others on this committee perhaps suggest—I realize that no motion was moved with particular reference to the next item, which is the minister. I will get to that in a moment, because there are two items that I've just bypassed to get to "local terms" on this, the first one of which is the "employee bargaining agency." The "employee bargaining agency" is "an entity designated under sections 19 or 20 as an employee bargaining agency." That's what the legislation states, so we have to actually go back to section 19 and section 20 to understand what those employee bargaining agencies mean. Again, this piece of legislation hinges on the process by which collective bargaining is going to take place in the future,

so understanding what these terms mean is essential. Looking at the various amendments that have been tabled—and, as my colleague suggested, more than one package; likely two or three; maybe more, where we have potentially 100 amendments to this piece of legislation—understanding what these agencies are is important.

We have a bargaining agency for the employees. We have a bargaining agency for the employer, which is the next item that requires a specific definition. As the bill states, it is “an entity designated under section 21 as an employer bargaining agency.” I know that part of the process of doing all this debate revolves around the changes and who actually is the employer and what role the government plays therein. I know that school boards are struggling with this idea, because at least some trustees are raising the point that these bargaining agencies are their trustee associations. I remember hearing, from at least a couple of delegations, or at least presentations through correspondence to me, about the challenges with respect to those employer bargaining agencies. What if school boards are not paid-up members of their trustee associations? What if school boards have priorities that don’t align with what their trustee associations are saying? Because there is that potential differentiation between outlooks and priorities and goals, there is a need, obviously, to understand what these employer bargaining agencies are to do in the event that there is no consensus about joining those associations or allowing those associations to speak for the employer, which is the school boards, what the relationship has to be and how collective bargaining changes or is altered going forward on that basis.

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Chair, many of the terms that are outlined in this section of the bill are pivotal to the future success of this legislation. If we get these definitions wrong—and there is some indication, as I mentioned, that there are some challenges with respect to it—we are perhaps heading into a collision course with the various “partners” that don’t include parents or students with respect to this piece of legislation.

There are, of course, other definitions that are required here, but I do want to stop at this point to suggest that there could have been a lot more discussion about what should be contained herein. There should be a lot more understanding about the different roles and responsibilities. In the absence of having those discussions about those roles and responsibilities, we get into a situation where 100 amendments are proposed to deal with particular issues.

For example, I know there was a proposed amendment that likely came from one of the presentations, if not more, regarding whether the definition of the “minister” contained in this is one that should be amended. I’m to understand that we no longer want to have a potential debate on amending that particular definition.

The definition states here, “‘Minister’ means the Minister of Education or such other minister to whom the

administration of this act is assigned under the Executive Council Act.” I’m personally trying to understand why we would have a designation of an alternate and why a Minister of Education would not be the person who speaks for the Ministry of Education as a very simple process of responsible government. We would understand that the political heads of our ministries are the minister responsible for that ministry. The responsibility for the Ministry of Education is with the Minister of Education. It has been a long-standing practice in the province of Ontario. Actually one of our oldest ministries in the province of Ontario is the Ministry of Education. So I don’t really understand why we would have a definition that says, “‘Minister’ means the Minister of Education or such other minister to whom the administration of this act is assigned under the Executive Council Act.”

I’m not sure why Bill 122 might be hived off to another ministry. Is the intent of the government to perhaps not deal with these matters in education? Is the intent of the government to perhaps deal with this from the Ministry of Labour as an alternate, the administration of this act under the Ministry of Labour? I’m really confused as to why we would have this clause in here in the definition of “minister” that perhaps might hive off Bill 122, the School Boards Collective Bargaining Act, to potentially go to another ministry.

Maybe the ministry they’re going to assign it to is the Attorney General. Maybe the minister they’re going to assign it to is the Ministry of Finance. Maybe there are some—we’re not allowed use the word “austerity” anymore, but we’re going to use it today—where those items are going to be at play. Maybe the administration of this act could go on to another ministry. Are members of this committee prepared for that eventuality to happen?

That’s exactly what it says here. “‘Minister’ means the Minister of Education or such other minister to whom the administration of this act is assigned under the Executive Council Act.” This whole piece of legislation could be assigned to a completely different ministry.

I’m curious to know whether the partners in education are okay with that. Are they okay with this particular piece of legislation going somewhere else?

The Chair (Mr. Garfield Dunlop): You have three minutes left of your 20 minutes.

Mr. Rob Leone: That’s unfortunate. I still have more definitions to go through. I’ll go on to the next one, given the fact that I have limited time here, Chair.

The next one is the Provincial Schools Authority, which means the Provincial Schools Authority continued by section 2 of the Provincial Schools Authority Act. I hope that the committee members, in deliberating about whether this section is a good section and a well-written section, would have reviewed the Provincial Schools Authority Act and made sure that whatever we’re doing within this act is consistent with what is being said in that act. It isn’t entirely clear because we haven’t really had any discussion other than from the Ontario PC caucus

members on this committee about what this bill is about and what this bill should say. I'm very interested to see if we're going to have a member of the government explain to us how the Provincial Schools Authority Act applies to this particular piece of legislation.

In particular, if you don't want to go through the whole act, perhaps you can review and read into the record exactly what section 2 of the Provincial Schools Authority Act actually says. I think that's an important thing that we might want to discuss and that's perhaps very pertinent to us in the deliberation of this particular definition.

I will also suggest that there are a couple more definitions that we should talk about. The one point is the school board. Obviously, school boards are integral to the functioning of a well-balanced education system in the province of Ontario. They are the employer of our teachers, our great teachers who are in our schools each and every day, helping students achieve success and achieve more and learn more and to help quench the thirst of learning that I know most students in this province have.

School boards are obviously an integral part of this piece of legislation. What's happening here, though, is that the trustee associations that these school boards may or may not be involved with are going to be the bargaining agents at the central level. That creates an interesting dynamic. I don't think that the trustee associations have previously had the opportunity to go through that kind of process, but it would be interesting to see how that all plays out, going forward. There are, I think, important aspects of what a school board means that have implications on this particular piece of legislation. We will, obviously, listen to potential further elaboration on what these items mean, particularly by members of the government, and I look forward to listening to those items.

The Chair (Mr. Garfield Dunlop): Further debate on section 2? Mr. Balkissoon?

Mr. Bas Balkissoon: No, no; I'm ready to vote.

The Chair (Mr. Garfield Dunlop): Are you ready to vote?

Mr. Todd Smith: No, I'd like to debate further.

The Chair (Mr. Garfield Dunlop): Okay. Mr. Smith.

Mr. Todd Smith: Thank you, Chair.

The Chair (Mr. Garfield Dunlop): Stay with section 2.

Mr. Todd Smith: Yes. My colleague actually raised a very important point when he was going through the definitions. At this time I won't go through all of the points he made and reinforce them, but I would like some clarification on the Provincial Schools Authority Act and how it applies to this piece of legislation. Would that be an appropriate question to ask the legislative counsel?

The Chair (Mr. Garfield Dunlop): I think you're free to ask that question to the legislative counsel.

Mr. Todd Smith: Would you have the answer to that, Ms. Hopkins?

Ms. Laura Hopkins: That's a statute that establishes the Provincial Schools Authority, and I understand that the Provincial Schools Authority employs teachers in the province. There are some teachers who aren't employed by school boards. Ministry staff will correct me about that if I'm wrong.

Mr. Todd Smith: Where would those teachers be who aren't employed through the Provincial Schools Authority Act?

The Chair (Mr. Garfield Dunlop): Please feel free to come forward.

Ms. Laura Hopkins: I'll invite Mr. Hadwen to help with that.

Mr. Tim Hadwen: Thank you. Tim Hadwen. They are employed at the provincial schools. The Provincial Schools Authority Act continues because the Provincial Schools Authority would continue. For those teachers who are employed at the Provincial Schools Authority, their labour relations would now be governed by the School Boards Collective Bargaining Act. The labour relations portions of the Provincial Schools Authority legislation are now moving, under the proposed provisions here, into the School Boards Collective Bargaining Act, while the portions of the Provincial Schools Authority legislation that continue the Provincial Schools Authority remain.

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Mr. Todd Smith: We didn't hear from any of those people during our public consultations, did we? That would fall within the Provincial Schools Authority act. They weren't given an opportunity or were never represented before the committee to provide any kind of input in the bill that we're talking about today.

The Chair (Mr. Garfield Dunlop): I can't recall, but I don't think—

Mr. Todd Smith: I don't believe they were. They were one of the groups that didn't have the opportunity because of the limited scope of the public hearings that we've been talking about. It's important to note that they are going to be impacted, potentially, by this bill. There's another group that should have been consulted and actually had a role to play in Bill 122.

Again, it's most disappointing to be a member of the PC caucus, which keeps continuing to push for all of the stakeholders to have an opportunity to comment on a bill that's ultimately going to affect them. Here we have another example that has shown up during the definitions portion of the debate.

I'm worried that we're going to come across groups that haven't been consulted. Obviously, if they're outlined in the definitions in this act, in Bill 122, then they have an important stake in all of this, yet they weren't heard from at this committee. It just drives home the point that my colleague Mr. Leone and I have been making: that there are many, many stakeholders who haven't had the opportunity to appear before this committee and speak to the impacts that Bill 122, the School Boards Collective Bargaining Act, is going to have on their lives and potentially on their livelihoods. I think it's

a very important omission that has occurred in the public hearing phase of these hearings, and I would just like to point that out. When they appear in a section entitled “definitions,” and we get these kinds of questions, I think it’s important that we hear from these types of individuals and organizations. So I just wanted to make it abundantly clear that, again, there’s another group that should have been consulted in this process, and because of the limited scope of the public hearings, we never did hear from those individuals.

There were a number of definitions here. My colleague Mr. Leone has done an excellent job of questioning some of the definitions of these important pieces of this new apparatus, which are being created with Bill 122.

“‘School board’ means a district school board and, unless the context requires otherwise, includes a school authority and the Provincial Schools Authority.” I guess we’ve established who that might encompass as well. Thanks to Mr. Hadwen for clarifying that for us so we can understand that there are people, again, who fall within the parameters of those who will be affected by Bill 122, who haven’t been included in this process.

“‘Teachers’ bargaining unit’ means a bargaining unit described in section 5.” We would, obviously, turn to section 5 of the bill to understand that, and there is the section on teachers’ bargaining units.

As we understand it, “Each district school board and each board established under section 68 of the Education Act has the following teachers’ bargaining units”—and we know who those units are, and we’ve heard from those individuals throughout this process. They were given an opportunity to appear before this committee, and there were a number of those groups who appeared before this committee in the public hearings. They were treated very fairly by this committee and given an opportunity to speak; albeit we never really did have an expanded and in-depth conversation with any of those groups because of the parameters that were set up for speaking with our delegations here at our hearings. We were limited in the amount of time when we could actually question the individuals. It was a very short period of time, and there was hardly an opportunity to understand the impacts that Bill 122 is going to have on these school boards, and on the teachers’ bargaining units as well—also a very important point, as well.

Then, “‘trustees’ association’ means l’Association des conseils scolaires des écoles publiques de l’Ontario, l’Association franco-ontarienne des conseils scolaires catholiques, the Ontario Catholic School Trustees’ Association and the Ontario Public School Boards’ Association.”

Interjection.

Mr. Todd Smith: Thank you very much to my friend Michael Mantha from the NDP. I did grow up in New Brunswick. When I graduated from high school I was actually bilingual, but moved to a very anglophone part of the province.

The Chair (Mr. Garfield Dunlop): Stick to section 2.

Mr. Todd Smith: I haven’t had a chance to practise my French very often, but I appreciate the opportunity to read it every now and then, and I do know what it means. Just don’t try to engage me in a conversation, because you’re going to lose me.

Anyway, there are a number of definitions, obviously. My colleague Mr. Leone has questioned a number of these definitions. I think the one that makes a lot of sense while we’re running on the theme of the French language here, goes back to the very first definition, and that would be the “central table” and the fact that, unfortunately, there was an opportunity before this bill was actually put in print, and there would have been an opportunity for that central table to draw the distinction and actually include the two French tables. There are concerns with that; no question about it.

“Central terms”: Mr. Leone spoke about limiting the powers of the minister. We were expecting that there may have been a debate that was scheduled and withdrawn from the table, but we were expecting to debate the role of the minister. I would just like to reinforce the idea—and the concern, actually—that was raised: that there’s an interesting dilemma that’s pending. I’m not exactly sure where this comes from. Perhaps we will get to it later as we get further into the amendments on the bill, but I believe that there should be some concern about the fact that the Minister of Education potentially will no longer oversee and have the ultimate—the administration of this act will no longer fall under the minister’s mandate. There are some concerns there.

I believe that the Minister of Education—and it would be the Ministry of Education that has been involved in this process in its entirety, for the most part; I believe, as my colleague alluded to, for decades and decades—there’s an opportunity that, at a whim, the collective bargaining process could be moved to fall under another administrator or another ministry. There is some concern about that.

I believe that’s something that we need to discuss further. I don’t know if maybe the legislative counsel can answer this question or not. In what type of situation would it occur where the Minister of Education would no longer have the—what’s the proper word that I’m looking for?—administration of this act assigned under the Executive Council Act? How would that be removed from the Ministry of Education? How would that take place?

Ms. Laura Hopkins: The Executive Council Act makes it possible for the executive council to assign administration of statutes to ministers, no matter what name is used in a statute. That power is typically used when ministers’ titles are changed. For example, at the moment, we have a Minister of Education. In the recent past, we had a Minister of Education and Training. Under the Executive Council Act, the administration of an act like this one would be assigned to the Minister of Education and Training because the job title changed.

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Mr. Todd Smith: Oh, I see. Okay. So it's not as if this would fall under the Minister of Labour.

Ms. Laura Hopkins: That would be a choice that could be made by the government, but typically, this sort of definition—and this is a standardly worded definition—is used in circumstances where ministers' job titles change.

Mr. Todd Smith: Periodically we've seen amalgamations of various ministries, and one minister is in charge of three or four different ministries, perhaps, so this is just basically focusing on the title of that minister and not necessarily moving it to a completely different—okay, I see.

Ms. Laura Hopkins: That's right.

Mr. Todd Smith: Okay. Well, that's clear enough.

I think we've gone through all the definitions and outlined some of our concerns with some of the definitions and the fact that, again, we have been successful, I believe, in driving home our point that we have been making since the outset here, as members of the PC caucus, that there have been some individuals who have a stake in Bill 122 who haven't been consulted properly and that we haven't heard from at the public hearing phase. I think it was important that we actually flesh that out during this exercise. I understand that we're past the point now where—it's unfortunate that we are potentially not going to be able to hear from the individuals that we would like to hear from.

I would encourage that the government take a more proactive approach when we're dealing with these pieces of legislation, to ensure that all of the parties that have a stake in whatever the bill might be that they are bringing forward—consult with all of those individuals who do have an interest in what is happening here, so that we don't make mistakes going forward.

The Chair (Mr. Garfield Dunlop): You have five minutes left in this 20-minute cycle.

Mr. Todd Smith: Thanks very much. Again, I believe we've gone through the various definitions, and I don't know if we need to belabour these points anymore. I think I'm ready to wrap up my comments at this point, Chair.

My colleague Mr. Leone?

The Chair (Mr. Garfield Dunlop): I'm going around the table. Any further debate on section 2? Mr. Leone?

Mr. Rob Leone: Well, if no one else would like to talk about this bill, then I think we'll continue going on.

I was just listening to the question that my colleague from Prince Edward-Hastings had asked the legislative counsel. I do note that, particularly in the education field, roles and responsibilities—so the member for Prince Edward-Hastings is clear—they do rotate, and I'll give you an example. Child care, and the laws and legislation involving child care provision, used to be under the purview of the Ministry of Children and Youth Services. It's now under the purview of the Ministry of Education. The Day Nurseries Act, for example, was an act that is now added to the scope of the Ministry of Education,

which it previously wasn't before. So it is possible for laws to transfer into different ministries, depending on what they do. Perhaps it's about title changes. Perhaps it's about just the nature of consolidating into a ministry a particular task. Those things are possible.

I think that one of the reasons why—I believe it was the ETFO who made the comments before—is that they were concerned that the transfer of this act could go to a different ministry. They want to make sure it's specifically under the Ministry of Education's provision. They talked at length about wanting that, and that is why there was an amendment proposed that would suggest that subsection 2(1), with respect to the definition of “minister,” only include or specifically state the Minister of Education being the person who wants to go forward with that. Now I understand that no one wants to bring that particular amendment forward. That is certainly the committee's prerogative to move or not to move, and I think that certainly I would like to hear more rationale as to why ETFO's presentation on this particular matter is not going to be moved by other members of this committee.

I'm concerned about a few things. When we talk about definitions to the legislation, as I first stated in my comments before, we're really talking about picking out words in this legislation that we think are important enough to specify in one of the first sections of legislation. We do this in all legislation. There is usually a definitions component in it. Any time we get into a conversation about definitions, there is going to inevitably be a debate about which definitions should be included in the legislation, which definitions should be excluded in the legislation and what was left out of the legislation that perhaps might be of important use to the committee itself. I think that there are certainly concerns with respect to some of the things that might have been left out of this definitions section that we might want to consider.

More specifically, I think we ought to enumerate, in this piece of legislation, the roles and responsibilities that may be assigned to the students. It seems that on an ongoing basis, we fail to understand or hear what role students play. At the end of the day, they are the people responsible for—not responsible for, but they are directly affected by the decisions that are made in the Legislature and at the collective bargaining table. There is no formal role; there is no formal definition of what their role may or may not be. They are simply not involved or not included in the particular piece of legislation that we're dealing with and debating.

I was a student for quite a long time. Obviously, I went through kindergarten to OAC—I was an OAC graduate. Then I was in school for a long time—in university for three degrees. I know what being a student is like and I know the effect that policies have at the ground level on the basis of my experience there. I know that these particular items often ignore the ground-level force or consequence that might be applied. On that basis, I think there is reason to include a definition or at

least outline, enumerate the roles and responsibilities of everybody with respect to students.

Another group of people who are affected by education policy created at the Legislature and/or through the collective bargaining process are parents. They are actually organized in every school that has a parent council, something that I believed we helped usher in. Yet, there has been no movement to incorporate or provide any input from or to list the roles and responsibilities of parents in this process. So here we are talking about a definition component of a piece of legislation, subsection 2(1), that is affecting two key components of our education system with respect to the roles and the responsibilities that may be assigned to them. There's no mention in this piece of legislation in that particular regard. I have some serious issues with that, Chair. I think that we have a responsibility to start listing some of these definitions in this piece of legislation. What are those roles and responsibilities? We've elaborated at length. We've probably spoken on this particular piece of legislation for hours, trying to get an assessment on where students and parents fall on this, and we are still in a position whereby we don't know where they stand or what their standing is with this piece of legislation. Why? Because no one else seems to want to talk about it. We hear some chatter sometimes from people talking about this over there, but they don't have anything on the record that would allow us to engage in a particular debate.

Another aspect, another definition that I think we should be considering is the very definition that is important to what our position is in the PC caucus with respect to co-instructional activities. I believe that there is a necessity to talk about and define what those co-instructional activities are. As we've stated time and again, our number one position has been that we want to see co-instructional activities as part of this bill in a meaningful way that safeguards those co-instructional activities. It's on that basis, Chair, that I wish to move an amendment to subsection (2) of this bill. May I read it in?

I move that subsection 2(1) of the bill be amended by adding the following definition:

“co-instructional activities’ means activities, other than providing instruction, that,

“(a) support the operation of schools,

“(b) enrich pupils’ school-related experience, whether within or beyond the instructional program, or

“(c) advance pupils’ education and education-related goals,

“and includes activities relating to school-related sports, arts and cultural activities, parent-teacher and pupil-teacher interviews, the preparation of letters of support for pupils, participation in staff meetings and school functions.”

The Chair (Mr. Garfield Dunlop): Okay, Mr. Leone. I'd like to have a copy for all the members. If we could, we'll have a five-minute recess on that. We'll get that copied.

The committee recessed from 1353 to 1358.

The Chair (Mr. Garfield Dunlop): Okay, we will reconvene. Mr. Leone, you have the motion. You have read it one time, I believe.

Mr. Rob Leone: Do you want me to read it again?

The Chair (Mr. Garfield Dunlop): Any questions from anyone on this motion?

Mr. Rob Leone: Debate?

The Chair (Mr. Garfield Dunlop): Please speak to it, if you wish.

Mr. Rob Leone: Thank you very much, Chair. Here it is, the moment of truth. I think, Chair, this is our first opportunity to look at whether extracurricular activities are going to have a place in this piece of legislation. I'm very interested to see how that works.

Just to recap: I do believe that we have an obligation to students who are looking to complete their extracurricular activities. This is particularly important because we're about to enter another bargaining season. I've heard concerns from parents—not just from my riding, but many are from my riding—who have expressed their concern and worry that when we go into another bargaining season, there may be some concern around the protection of extracurricular activities.

That's why I think a definition right now is prudent, that we say that this is actually an important part of this legislation, that the legislation contains an aspect—it shows direction that we intend to elaborate upon some of these points, and for future sections. It is a sign that we are going to be able to negotiate and talk about extracurricular activities in this bill.

I think that it is essentially important to, again, students, but it's usually the parents of these students who are talking to us. They're hearing from their coaches already that there might be potential unrest in the new school year. I know this particularly to be the case with folks who are involved in football. Their football season, obviously, runs for just a few short weeks in September to about the middle of November. The concern is, if a football season isn't played, whether the graduating students in that class are going to be in competition for the universities and colleges that they are being recruited to attend on the basis of their football skill.

I'm sure, although I've heard varying degrees of interest in this, that this applies to other sports as well. This applies, certainly, to varsity volleyball and varsity basketball. I'm sure it applies to soccer and to hockey. I think that these are concerns that have been raised time and time again by students. We've heard it before and, in the absence of protecting extracurricular activities in this piece of legislation, we're going to hear it again.

Interjections.

Mr. Rob Leone: I hear a lot of chatter, Chair. I'm not sure if I should continue or not, but—

The Chair (Mr. Garfield Dunlop): Gentlemen, could we just have a little bit more quiet over there, please?

Mr. Rick Bartolucci: Sorry, Chair.

The Chair (Mr. Garfield Dunlop): It's okay. Thank you.

Go ahead.

Mr. Rob Leone: I do strongly believe that we have an opportunity here with this piece of legislation to say something to our students, to their parents and to those who actually want to provide extracurricular activities in our schools: that there's going to be certainty with respect to that.

We've moved this amendment to section 2 subsection 1 of this bill to include a definition of co-instructional activities. It's important that we understand what those do:

- “(a) support the operation of schools;
- “(b) enrich pupils' school-related experience, whether within or beyond the instructional program; or
- “(c) advance pupils' education and education-related goals.”

As a university prof, I remember at Wilfrid Laurier University that we have what's called a co-instructional or co-curricular record. This enumerates and lists the activities a student does while they're at Wilfrid Laurier University.

I was reminded of this when I was a professor there, that we actually had the same thing when we were in high school. Although we didn't necessarily call it a co-curricular record, there is a record of sorts. There are awards upon graduation that are awarded to students who participate in co-instructional and co-curricular activities, those being sports, those being drama clubs, those being debate clubs, those being charitable groups and those being other activities or groups that students congregate in. We know that there are anti-bullying groups formed in our schools, as well. These are all of interest in terms of what we want to protect.

In addition to those, we have sports teams. I've mentioned a few of those already. Whether they be football, hockey, baseball, volleyball, basketball, badminton, tennis, swimming or curling, there are so many different kinds of activities that students participate in that are of an athletic nature.

I know that, as we look at trying to improve health and to prevent health problems from occurring, one of those aspects—one of the goals of government—is to get kids more active. So not protecting extracurricular activities and physical activities may have a detrimental effect on children's health. I think that that's something that we have to be concerned about as well.

I would hate for there to be contradictions in the government's outlook on these particular matters. If they decide that they don't want to actually, at the very minimum—we're not even saying what this definition is going to do; we're just saying that we should define it as a component of this particular section, to suggest that it “includes activities relating to school-related sports, arts and cultural activities.” I haven't even touched upon cultural activities.

These cultural activities in our schools enrich the educational experience of students. They provide an opportunity for shared and mutual understanding of different cultural events, different cultural norms. This is important to a vibrant, multicultural society. I would hate

for any particular piece of legislation to ignore this very vibrant point.

I know that my colleague from Prince Edward-Hastings has done an amazing job trying to work toward making the month of January Tamil Heritage Month. It's a very important part of something that he looked forward to presenting as the first bill that was introduced in this Legislature when we returned in February.

The Chair (Mr. Garfield Dunlop): Try to get back on the amendment there.

Mr. Rob Leone: The point I'm making here is that cultural activities are a part of what we, as legislators, do and recommend—

Interjection.

Mr. Rob Leone: I didn't realize. It's a good bill.

This is what we do. We protect these things, and we advance them. Almost every week, when we have private members' bills, it's another part of our culture or another part of our heritage that we try, in some way, to commemorate. I'd want the same thing to happen in our schools. We actually do a good job here in the Legislature, but we need to protect these activities in our schools, because it's so vital to having a vibrant and multicultural society.

This is one thing that I've brought up before, and I'll raise again, because it's part of this definition that I'm seeking here, which includes parent-teacher and pupil-teacher interviews. This is something that I believe many parents would suggest is important to a good education. In particular, I would suggest that they say this because having that feedback about how your child is doing is so vital to their success. It troubles me that we have moved away from having standardized days allocated towards parent-teacher interviews. The result of not having a standardized day, which is widely publicized, which the school sign outside allocates a couple of nights or a couple of days to parent-teacher interviews—the net effect of that is, fewer parents are actually seeing their teachers. If fewer parents are taking the opportunity to visit with their teachers, they're not understanding what could help those students do even better than they are in school.

As a parent, I'm troubled by the fact that this is actually happening in our schools. As a parent, I made the time available to meet my teacher, and my teacher willingly and gladly made the time to meet with me and my wife. But, the fact is, so few people are taking that opportunity, and I think we're losing something in our education system. I actually think that will hurt student achievement rather than help it.

I remember listening on the radio where a teacher said that every year he sent out three different coloured forms: a red form, a yellow form and a green form. The red form he sent to students who really, really, absolutely needed to have their parent visit with the teacher. He sends a yellow form out that said, “You might benefit from coming and visiting with me and helping your student,” and a green form that said, “Your student is doing well. If

you want to meet with me, we can talk about some other things than how your child is doing.”

Time and again, his claim was that the people whom he sent the green forms to had the highest response rates. The worst response rates were families who had the red forms. This is troubling, because the very people who need the help and need the support of everybody, not just in their schools but even outside our schools—those parents aren’t coming. By not scheduling parent-teacher interviews, this becomes a greater challenge, which will lead to further disparity between who succeeds in school and who doesn’t. That should ultimately be something that we’re very concerned about. I’m very concerned about it, and I hope members of this committee are as well.

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The preparation of letters of support for pupils: I know this is actually quite a time-consuming role. As a university professor, we’ve actually just left the season where folks are applying to graduate school. Inevitably, you would have dozens of requests for references to other programs. I know that teachers play an integral part in writing recommendation letters for their students to get into particular programs, particularly when the grade assigned or the average of that student doesn’t reflect their skill level. Sometimes, post-secondary institutions will take into account the comments of those teachers in allowing those students to get in. Perhaps it was a health issue, perhaps it was a mental health issue; there are various reasons why these will happen.

Also, recommendations for placements into jobs, into co-op positions: All of these things are included in the co-instructional environment, which we cannot necessarily delineate from the educational experience of students. There are a lot of reasons that we would want to include that particular element in our definition as well.

The last part of this is the participation of staff meetings and school functions. I’ve met extensively with teachers. I’ve met with almost every delegation that has requested a meeting. I’ve met with parents. I’ve met with principals. One of the things parents are concerned about is the lack of supervision in the playground. I don’t know if many parents actually visited their children’s playgrounds during their nutrition breaks or recesses or lunch breaks—whatever they’re called throughout the province—but the seeming lack of supervision that is required when children are outside defies a lot of the rationale for having different ratios inside. Some challenges have emerged from that. Principals are talking about how they can get adequate supervision. The difference between being supervised by a teacher and a volunteer is a certain element of concern for parents and principals—all of which should be a discussion point that we would obviously want to engage the partners on, which includes parents and students, on how to move forward on it.

I believe, Chair, that it’s very important that we have this amendment, that we incorporate this definition of co-instructional activities because they’re so vital to what many parents and students are asking for.

I want to move back to the presentation element because during the presentations, many of the delegations—13 delegations, I believe, made to this committee in very rapid fire—there were hints that people wanted to talk about this particular issue. I would guess that if we actually took this piece of legislation and talked to parents about it, we would have so many more asking for different avenues to be explored. I believe there would be some strong consensus that we should move on extracurricular activities. I believe that because it’s what parents are telling us day in and day out.

I think that as a committee, we have an obligation to consider this amendment and to incorporate a definition of co-instructional activities in section 2 of this act because it’s a vital part of what I think is part of the educational experience. If we can protect that in any way, we would be sending a positive message to students and their parents.

If there is a better way of doing it, if you don’t like the way we might be approaching and you have a better way of doing it, then I’m all ears. I’m happy to listen and entertain the suggestions of committee members on how we best do this. But in the absence of that, we are going to put forward a series of amendments that are going to get the job done. We’re very hopeful that the members of this committee—as attentive or inattentive as they may be at the moment—are going to be concerned about what is happening with this definition and do their utmost to protect what parents and students are certainly asking for.

I have to say, Chair, that I have heard from some teachers as well. I know that there are some concerns that have been raised with particular reference to some of the news articles that have emerged on this. I want to stress very clearly that our goal is simply to heed the concerns of so many people who have come before us. We recognize that our teachers are instrumental in delivering co-instructional activities in our schools. We recognize that, we understand that, we thank them for the work that they have done and we know that a great many of them want to continue to do and provide those co-instructional activities for their students. We want to stand with them to make sure that they have an opportunity to continue to do that. I want to make sure that everyone is very clear that our motivation here—we’re not trying to pick a fight. What we’re trying to do is to get legislation that people will be happy about.

Part of the issue is that nobody really knows about this. We talked about a major educational interest group that had no idea that we were even having public hearings, that those public hearings were done.

The Chair (Mr. Garfield Dunlop): You have about a minute left, Mr. Leone.

Mr. Rob Leone: I think we have an obligation to speak out on this. That’s why I’ve asked questions in question period about this. That’s why you have seen news articles related to it. Our motivation is to help students to protect their extracurricular activities. Many people live for those extracurricular activities in our schools. They are such an integral part of what we do.

They are such an integral part of our educational system. In fact, as the minister said, when she was the chair of the Ontario Public School Boards' Association, they are an essential component to a comprehensive educational experience. All I want to do is to honour that commitment to parents and to students to ensure that those co-instructional activities remain in Ontario schools.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Leone. Further debate on the amendment. Mr. Smith?

Mr. Todd Smith: Yes, thank you very much. I would first of all like to applaud my colleague Mr. Leone for bringing forward this amendment. Again, this amendment, although he has discussed it at great length, as we have now for a couple of hours, stressed the importance of including co-instructional activities in the job description of our teachers, but this simply adds the definition to the list of definitions that are included in the bill. I think it's a very important first step for this committee to make and to take, to simply include the definition in the bill moving forward. It's the one thing that has really been hanging this up.

Of course, we have talked about the lack of public consultations that have occurred. The definition of "public consultation"—that's actually something that we should include in the bill; keep that in mind, my friend. But what we're talking about here is including "co-instructional activities" in the definitions of the terms that we're discussing as a part of this bill. We have to do that if we are going to have a real conversation on including these co-instructional and extracurricular activities in the teachers' job descriptions. This is a first step. It's not obligating anything from you in the future except for engaging in this debate on whether or not we do include that in this legislation moving forward.

It is so important to us in the Progressive Conservative Party to include this as part of the teachers' job description because, as the Minister of Education said herself in question period this morning and as far back as 13 years ago, it's an integral part, a very important part, of the school day, and we do have to make sure that these activities—I've used this term a number of times—aren't held hostage in the future.

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We feel it's our obligation, as members of the Progressive Conservative Party, to include co-instructional activities in this bill and to add these into the teachers' job descriptions. We've been talking about the reasons why for quite some time, but they need to be included in the bargaining process.

I can tell you, harkening back to the fall of 2012, how important these types of activities were to students in Prince Edward-Hastings riding and right across the province. There was so much concern and consternation from students, parents, coaches, teachers and the entire community. Our schools, and particularly our high schools, have such an important status in our communities.

I think back to that fall and the football season. It's not like the southern states, where football is a religion, but

certainly it's a very important part of our communities and our culture here in Ontario. Football season is one of those times of the year when, at Moira Secondary School in Belleville, the Trojans have their pep rallies. They are, by the way, the defending national capital football champions for two years in a row at Moira Secondary School.

But that season could have been wiped out. It could have been wiped out. What a loss. Just imagine if that football season had been lost. What a memory that has been, and what an experience—a life experience—that has been for those players on that team, and those parents and family members of all those boys who played on that football team. That could have been lost, if not for a number of teacher-coaches who said, "You know what? We don't care about sanctions. We don't care about any kind of potential punishment or isolation that we receive from our colleagues. We know this is such an important thing to our students and to our communities that we're going to go ahead and we're going to make sure we have this football season." And what a great football season it was, for the Moira Trojans in particular.

All of the schools in my region and in districts right across the province looked forward to that every year, and not just for the experience of playing football; it's one of the great parts of being a student athlete and one of the great experiences of being in school.

I know that when I was a student a long time ago at Riverview High School in Riverview, New Brunswick—I can't imagine what school would have been like if I hadn't had the hockey team, the football team and the baseball team to participate on. I loved going to class too, and learning, but if I didn't have those extracurricular activities, it wouldn't have been nearly as memorable of an experience. We certainly knew how to throw a pep rally with the Riverview Royals in Riverview, New Brunswick.

Back to Ontario: I know it is an important part of our daily activities in our schools. While we did have the football season in the fall of 2012, there were so many other seasons that were cancelled. There were so many sports teams that never did hit the field. There were curling rinks that were expecting to go to bonspiels and had paid their registration fees and had arranged for their transportation to get to bonspiels across the province, and those were cancelled. It was a travesty for those athletes and their families that those types of activities were held hostage and were unavailable because of something that was completely out of their control. They were collateral damage in this feud that was created, and they never should have been.

This could have been avoided, and that's why we're speaking about this so passionately. It's because we don't want to see this happen again in Ontario. We don't want to see this happen again in our schools.

I know that parents out there and teachers out there and students out there will be supportive of this—not all, but the majority, in my opinion, will be for including this type of legislation. But again, I would love to hear from

my colleagues on this committee, and I'm sure—some of them look like they might have played a few sports or been involved in school activities when they were in high school. No?

Mr. Vic Dhillon: Just Bob.

Mr. Todd Smith: I know Bob is a hockey player.

This is almost a rite of passage for a lot of people to be involved in these extracurricular activities, in their high school years particularly. But I have two children who are involved in elementary school—and the disappointment in their faces when they came to me and they said, “Daddy, what’s going on with our government that we can’t participate in our track and field meet this year? Daddy, why can’t you fix this? You’re in government. Why can’t you make sure that we have our teachers out there coaching our soccer team and our volleyball team?” I heard that from my own children and I heard that from children right across the riding, and of course, across Ontario.

We can make a difference. We can prevent this from happening again. We just have to have the discussion and the intestinal fortitude to have that discussion here in this committee room, where we’re making amendments and changes to Bill 122. I know you all heard this from your ridings because you all have schools in your ridings. You all have families and children and sports teams and extracurricular activities that didn’t go ahead because of the way that this whole process is set up in Ontario.

That’s why this is such an important discussion to have, and that’s why this definition is so important to be included in this bill. Again, it’s not just the sports. The sports are a big part of it. They were a big part of it for me, and they are a big part of it for a lot of the kids out there. But, as my colleague alluded to, there are a lot of children who are struggling out there, in particular with math, and my colleague has put a strategy on the floor that he would like to have introduced in the province. There are so many teachers out there who do understand that children are having a difficult time, not just in math but in many subjects. Math is the one that seems to be the most prevalent problem right now in our schools.

Two years ago there were so many teachers who wanted the opportunity to tutor the children after school, but because of the job action that was in place, they were unable to provide that service to the children, and they wanted to do it. That is the reason why most of the teachers get into that profession: because they want to be educators. They want to mold our future leaders. They want to provide them with the skills they need to be able to give you the right change back at the cash register when they’re working at the grocery store for their part-time job in high school, or down at the Tim Hortons, when somebody orders a double-double and they give them five dollars, how much change to give them back. These are the kinds of skills that—and I know you see it because you all go to Tim Hortons for a coffee. There are children now in these retail outlets who don’t have the basic skills to even provide the right change for a \$1.80

coffee when you hand them a five-dollar bill. We have to do a better job—

The Chair (Mr. Garfield Dunlop): Back to the amendment a little more.

Mr. Todd Smith: Thank you very much. I appreciate the opportunity to get back on here.

The extracurricular activities and the co-instructional activities are so important in our schools. I spend a lot of time around the schools when I’m not here, because I have children in the schools, and in my previous career as a sports broadcaster and news broadcaster, I was in the schools an awful lot, participating in charitable events that the schools were hosting, the food drives that they were holding, covering these types of activities, broadcasting their sporting events. I know the enthusiasm that these types of events bring to our communities, and we shouldn’t be in a position where these are held hostage in the province.

1430

One of the other issues that my colleague Mr. Leone has included in his motion is participation in staff meetings for our teachers. I know that this was something that was withheld during the job action of 2012. He brought up the safety issue. One of the groups that we didn’t hear from during our public hearings was the principals’ councils. These staff meetings are an opportunity on a daily basis—maybe not a daily basis, but a couple of times a week, anyway—for the principals to meet with the staff at the schools and ensure that if there is anything that is happening on the school grounds that needs to be rectified, where there might be a hole in the supervision that they are providing that creates a dangerous situation—it’s an opportunity for the principals to address that with the staff. Staff were not able, because of instructions that they were receiving from their various federations, to participate in these staff meetings, which are such an important part of the school day and school experience. This would require participation in those staff meetings.

The principals have so much responsibility on the school property on a daily basis. They have to ensure that there’s a team that’s working to create a safe atmosphere, and that the entire staff are aware of what’s happening on the premises. To not participate in those staff meetings, I feel, creates a potentially dangerous situation.

The other part of this that I wanted to touch on is parent-teacher and pupil-teacher interviews. I don’t know about you guys, but I have children now, and they bring home these report cards—this is going down a different road, but just bear with me for a moment. The report cards these days are so impersonal. There’s just no way, when you’re reading these things, to get a real handle on whether or not your child is doing well in school, or what they really need to work on. There’s just something about them that’s so bureaucratic, and there’s not a personal touch to it. Parent-teacher interviews are so important. I feel that I have to go to these interviews to get a handle on what my child is doing well in, what areas she needs to improve on or what experience we can add to her learning the curriculum that is before her. It just seems to

me that those types of activities should be stressed. Parent-teacher and pupil-teacher interviews are so important to the school experience. These types of issues shouldn't be part of any kind of job action.

I hope we will have some discussion, because I really would like to hear from my fellow MPPs and committee members as to the importance of co-instructional activities in the school lives of their children or themselves. I know they've all experienced memorable moments in their careers in school, and I just can't imagine that they wouldn't want to include the definition for co-instructional activities in the document as we move forward and have this discussion.

If we don't have this discussion, I think we know where this committee is headed, and we're not going to be headed anywhere really fast. There's an opportunity to address this situation by accepting this motion that Mr. Leone has put forward and really having this discussion on whether or not co-instructional activities—extracurricular activities—should be included in the school day of our students and our teachers.

As I've said in previous comments, and I believe Mr. Leone mentioned it earlier, the extracurricular part is important when it comes to moving on to post-secondary as well, not just for the experience, but the opportunity for families, potentially, to get scholarships. In a time where post-secondary education—and correct me if I'm wrong, but I believe in Ontario it's the most expensive in Canada, or it's right there—

Mr. Rob Leone: Universities.

Mr. Todd Smith: Yes, universities. Any type of scholarship that students can acquire—

The Chair (Mr. Garfield Dunlop): You have a minute left.

Mr. Todd Smith: Thank you. Any kind of scholarship that students can acquire through extracurricular activities has been removed from these students in the past. That's another reason why our extracurricular activities should be discussed as a part of this bill and potentially included in the job description of teachers too.

I would hope that my committee members agree with the motion that was put forward by the member from Cambridge, our education critic, Mr. Leone, and that we have a real, adult discussion on the future of co-instructional activities.

Thank you very much for your time, Chair.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Smith.

Further debate on the amendment? Mr. Leone?

Mr. Rob Leone: Yes. I do want to clarify a few things and make clear for committee members before we head to a vote. This amendment that I have proposed is going to section 2 of this act. It is simply to state that co-instructional activities should be part of our discussions. It doesn't talk about co-instructional activities being part of, or defined in, a teacher's role. That may well come later on in this debate, but the intent of this particular amendment is to put co-instructional activities on the

agenda as something that we want to talk about in this piece of legislation. It's the opportunity that we have to take a look at this aspect that is completely lost in this particular piece of legislation, and we want to make sure that it's not lost. In fact, we want to state very early on in this process that co-instructional activity is going to be a repetitive concern—particularly from us, but of all members of this committee—should this amendment be accepted.

We are concerned that no one seems to want to talk about co-instructional activities other than the members of the PC caucus. It means that, certainly when it comes to education, we'd love to talk about education as often as we are. I think the proof is in the pudding. If we look at the word counts on this particular piece of legislation—in this committee, I will recommend that someone do that. It will show that the PC caucus has, time and again, been simply the only voice, really, for parents when it comes to some of their concerns.

I want to make sure that we're very clear on what we're voting for, because there is some discussion and debate that will certainly ensue, but right now, with this minimal amendment, we are putting co-instructional activities on the agenda. We're doing that by adding co-instructional activities to the definitions section of this bill. We're not adding and defining co-instructional activities in any other way, but to suggest that this is something that we are going to talk about with this piece of legislation. It's something that has not, to date, been talked about. It's something that we feel is vitally important to students and to their parents. As we have, I think eloquently, stated, if I can be so bold as to say, we have been very passionate.

I know my colleague Mr. Smith has taken part in extracurricular activities when he was in high school. That was more years ago than when I was in high school, but we'll leave that for another day. When I was in high school, I also participated in many extracurricular activities, in sports, in music and—

The Chair (Mr. Garfield Dunlop): Better get on to newer topics; you're repeating.

Mr. Rob Leone: —I think that it's important.

Well, that actually is in the definitions debate, which is to say that those activities are of importance to students. There is no denying that fact. There is no denying the fact that we have an obligation to parents and to families that we will do what we can to talk about the issue and, when the time comes to debate this, that we secure, protect and safeguard co-instructional activities in this piece of legislation.

I want you to know that this is the first opportunity that you're going to get to vote on this and that we're very interested to see how the vote turns out. This is the first sign of good faith that you can provide us in this to-and-fro. Should you be so inclined to agree that we are going to further debate co-curricular activities and instructional activities with this legislation, and should you be inclined to agree that we should have that debate

and discussion and are willing to pass those amendments, we will have that discussion.

I will hope that if you're going to commit to something, you would put that in writing and make sure that we're able to do that. But that's another issue for another time.

All I really wanted is to clarify what we're doing here, which is to add this amendment and this definition of co-instructional activities to the list of definitions that are found in section 2, subsection 1 of this act. That is what we are doing here. We are not doing more than that; we are not doing less than that. We're just adding that—

The Chair (Mr. Garfield Dunlop): Okay. You're repeating yourself. We've heard that.

Mr. Rob Leone: I'm happy to end it on that. I just want to make sure everyone is clear on that, Mr. Chair.

I have concluded my remarks.

The Chair (Mr. Garfield Dunlop): Thank you very much. Are we ready to vote on the amendment?

Mr. Peter Tabuns: Yes, a quick question—

Mr. Rob Leone: Twenty-minute recess.

The Chair (Mr. Garfield Dunlop): Okay, the 20-minute recess, ladies and gentlemen, will take us to the next meeting, and we will vote on it immediately at the start of the next meeting, which is next Wednesday afternoon at 12 o'clock.

We're adjourned.

The committee adjourned at 1443.

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Official Report of Debates (Hansard)

Wednesday 26 March 2014

Journal des débats (Hansard)

Mercredi 26 mars 2014

Standing Committee on the Legislative Assembly

School Boards Collective
Bargaining Act, 2014

Comité permanent de l'Assemblée législative

Loi de 2014 sur la négociation
collective dans les conseils
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 26 March 2014

Mercredi 26 mars 2014

*The committee met at 1202 in committee room 1.*SCHOOL BOARDS COLLECTIVE
BARGAINING ACT, 2014
LOI DE 2014 SUR LA NÉGOCIATION
COLLECTIVE DANS LES CONSEILS
SCOLAIRES

Consideration of the following bill:

Bill 122, An Act respecting collective bargaining in Ontario's school system / Projet de loi 122, Loi concernant la négociation collective dans le système scolaire de l'Ontario.

The Vice-Chair (Ms. Lisa MacLeod): Ladies and gentlemen, welcome to the Standing Committee on the Legislative Assembly, where we're dealing with Bill 122, An Act respecting collective bargaining in Ontario's school system. Pursuant to the last meeting, we are now going to call for the vote on PC motion 1.1, moved by the Progressive Conservatives. All those in favour?

Mr. Rob Leone: Chair, may I have a recorded vote?

The Vice-Chair (Ms. Lisa MacLeod): You may.

Ayes

Leone, Nicholls.

Nays

Balkissoon, Crack, Delaney, Mangat, Mantha, Tabuns.

The Vice-Chair (Ms. Lisa MacLeod): The motion does not pass.

We are now dealing with all of section 2. Shall section 2 carry?

Interjection.

The Vice-Chair (Ms. Lisa MacLeod): Further debate? Mr. Leone.

Mr. Rob Leone: Thank you very much for giving me the floor, Chair. I appreciate the opportunity to speak. I will state at the outset that I'm very disappointed by what has transpired in this committee. We have been seeking an opportunity for further discussion and debate about something so vital to parents, which is why we decided, in section 2, which is the definitions section of the act, to include a definition of co-instructional activities that not only included football practices and soccer practices and volleyball practices and all sorts of sports in our schools,

but also the arts, taking care of drama classes, music classes, choir practice and a variety of activities therein, and also helping students outside of the instructional day, which is often considered a co-instructional activity that teachers do provide to their students.

It is with some great disappointment that we weren't able to include that definition into section 2 of this act, particularly because it didn't have any effect, just adding a definition of co-instructional activities at this juncture. It did not, in any way, alter the bill and alter the expectations that we might have of the education system.

I suggest, and will re-suggest, that I'm very disappointed that this committee sought at this juncture to vote down what amounted to an innocuous amendment to include extracurricular activities. That didn't have any force to change anything in the legislation; we were just defining what co-instructional activities actually were.

That being said, I will continue to talk about what remains in section 2, the definitions portion of the act. I will say that it's obviously important to understand what is defined in section 2, because it is the definitions portion of the act, but also what is not defined. What are we missing out?

I noted with interest that in question period today, the Minister of Education continued to state on an ongoing basis that the partners of education include the trustee associations—the Catholic trustees' association, the Ontario Public School Boards Association, the French Catholic and French public trustee associations were partners—and then proceeded to include and enumerate a number of other “partners” that include ETFO, OSSTF, AEFO who are all part of the partners. But what we don't see outlined or enumerated to any degree in this particular part is a definition of other partners that might be included. I will suggest, with some degree of dismay, that what's not included in this definition phase is a definition of what other partners might exist in our system.

Certainly, I have made the point, over and over and over again, that we should be talking about students and parents as being important partners in our education system. They should have a vested interest in the direction, and the future direction, of their education system. We are, at some point, debating with this piece of legislation whether they're going to have more or less control on that direction.

This bill is designed to set up a process whereby we have central tables and we have local tables, and the participants at those tables are spelled out in this legislation.

They include the government, the teaching federations and the school board associations. That's what is outlined in this bill, but there has never been an attempt to consolidate or to consider what effect parents might have on this particular piece of legislation. So I will state with a degree of dismay, once again, that we are here talking about an important piece of legislation to the education sector, and that we aren't considering the effect of parents as partners in this system.

I know that every member on this committee and every member of this Legislature is facing a degree, or did face, particularly in the aftermath—or not just the aftermath, but during the withdrawal of extracurricular activities in our schools that occurred just a year ago. Because of that, I think that we have to consider the thoughts and opinions of our own constituents when it comes to matters of education.

I need not remind members of this committee that education is the second-largest ministry in our government. It helps students learn, but it's so vital to the social fabric of our province and to our economic well-being. To have such a vital part of our legislation talking about definitions—which is what we're doing in this section—but excluding some of the biggest stakeholders in this, who are our kids, from this piece of legislation is, I think, an oversight. I hope that it doesn't mean that the people who drafted this legislation were either told not to consider the thoughts and wishes of parents or that they were simply ignored from the get-go.

I don't know if that's the case. I certainly don't know who—if any parent—was consulted. From my interaction with parents across this province, the answer to that is that they haven't been consulted at all.

1210

I want to throw that out to the committee to consider. I think that we have an opportunity and an obligation to look at where parents fall in this whole scheme, and can we put in or insert in this piece of legislation meaningful dialogue and meaningful understanding of precisely who is very important to this education system. I want to put that on the table for committee members to consider.

I hope, in the process of your communication and your actual speaking to this bill that everyone considers to be very, very important to the education sector, that when you take the opportunity—because everyone is given the opportunity to speak to this bill—you will talk about the effect this bill will have on parents in your own communities. That's important to note.

I will also note that another key stakeholder that is not included in this are our kids. I have three young children who are or are about to be in the school system. Education is a vital issue that is of concern to my family. It's a concern to our friends who also have young children. I think nothing is more important to children than what they are doing in their classroom and what they're doing in extracurricular activities.

I know that one of my favourite times of year to visit my son's school is during the Christmas season, when they are doing their celebration and each class is doing

their skit. I can see, as I'm observing the room, just the sheer excitement that is in that room, not just from the kids who are actually performing their plays, reciting their songs or doing their dance, but from the parents who are filling the gymnasiums in schools right across the province of Ontario to witness the spectacle that is before them.

I know that my wife and myself were at that celebration. I know that my parents came. I know that my wife's parents came. I know that there were a lot of people who were enthusiastic about witnessing a very unique feature, which is kids just being kids. It would be a shame to have that experience taken away from our children on the basis of our inability, as a committee, to include co-instructional activities in our deliberations. I'm quite saddened that even on that vote we weren't able to do that. That shouldn't shirk our serious responsibility to our children to ensure that they have a full and wholesome educational experience, the one that I know many of us remember when we were growing up.

Oftentimes, you'll hear our students talk about—our kids talk about—how great their class was. My oldest son is fascinated by learning French. He's also fascinated by math. But he often talks about some of the activities he does outside of the classroom as being part of his educational experience.

I know that members of this committee who have children, or not even if they've had children, but if they have nieces and nephews or grandchildren—well, they would have to have children to have grandchildren, I suppose. But people who are witnessing them, or probably their neighbours, if they don't have children, can sympathize with the fact that we should be saying something positive for our parents. I think that we should talk about students. Critical to the success of the vibrant educational system is the success and the educational experience of our children.

I know in my previous critic portfolio, we often talked about the educational experience for students who are in college and university as being important. I think the same thing applies in this piece of legislation: that we should actually consider the educational experience of our children. Although we can't elaborate on some of the pitfalls of our education system today, whether it's some shortcomings in curriculum—I know mathematics is something that is of importance to parents and to students. There have been media stories probably for the last six months talking about math education, and these are things that parents are deeply concerned about. But they want to have some ability to ensure that they have some control about the success of their students. Obviously, our children are our most precious possession, and I think I can say that on behalf of parents right across the province of Ontario.

Section 2 of this act, which is the definitions section, has a number of subsections as well that we ought to examine and explore. I know that I had gone through some of the definitions and talked about them elaborately, and I'm pretty sure that my colleague, Mr. Nicholls, who's

not really Mr. Smith—I see that name tag not being correctly—

Interjection.

Mr. Rob Leone: It's on the other side? All right. I just see that we're looking at Mr. Smith, even though he's not here today.

He might want to elaborate on what his opinions are on some of these definitions as well, but I want to point out some of the subamendments. As we're reviewing clause by clause, it's important to review the entire piece of legislation, and I feel that on this committee I'm probably one of two people who have read this bill because I'm the only one who seems to want to go through this clause by clause.

But here we go. We're talking about local bargaining in subsection 2(2) of this act. The definitions part of it states:

"In this act, local bargaining refers to collective bargaining between a school board and a bargaining agent for a collective agreement or, where both central and local bargaining are required, it refers to collective bargaining for local terms to be included in a collective agreement."

Again, I want to stress that it is quite important that we get a process established that is correct, and I appreciate that there are a lot of people in this room who are looking at this legislation and saying that we need to get this passed. Part of the reason for that is because there needs to be some preservation of local bargaining. As I read commentary from our teachers and our unions, I know that local bargaining is something that is quite important and something that they want to preserve. That's partly protected in this piece of legislation. I think there are some concerns, obviously, with respect to local bargaining that may arise from time to time, but the process is laid out such that we have central tables and local tables. I think it's very appropriate to have local bargaining included in this definition.

I noted some union leaders on the weekend or into last week were stating that if Bill 122 doesn't pass, negotiations will occur just as they always have, which is at the local level between locals and school boards in a traditional format. I'm interested to see what the government thinks about that kind of comment and whether they're interested in pursuing that a little further or not; I don't know. I certainly do understand and even appreciate some of the concerns they're raising, particularly because that local bargaining piece was completely absent from the Bill 115 debacle that this government engaged in that upset teachers right across the province of Ontario. I'd love to hear some more from the government on that particular aspect of this legislation.

The definitions section goes to subsection (3), so there are, I think, in this section, four subsections. Subsection (3) is about central bargaining. We understand at the outset that this piece of legislation is trying to define the local process and a central process therein, and so it's important that they define that.

As it suggests:

"In this act, central bargaining refers to collective bargaining between an employer bargaining agency and an employee bargaining agency for central terms to be included in a collective agreement between a school board and a bargaining agent."

Again, the reason why we have a definitions section in legislation is that it sort of gives us a roadmap, some foreshadowing of what's to come in this piece of legislation. As we can tell—in the definitions section here, we can talk about the local terms and the central terms as being critical elements of this piece of legislation. I want to say that as something that's important because in the absence of doing the same thing for extracurricular activities, we're actually suggesting that it's not important or shouldn't be important to this piece of legislation. I don't know if the members of this committee actually really understand the gravity of what they did when they voted on that previous motion. We're trying to establish here a process by which we can look at, examine and explore different ways that we can promote the continuation of extracurricular activities in our classrooms. It is a challenge that we have put to the government.

1220

I'll say this openly: If you don't like the idea we're presenting with respect to the amendment that we're making, then come to us with another one. I know you want to pass this piece of legislation. I know it's important to you. It's important to some of the partners out there. I think parents would love the clarity that we could provide, if that opportunity does arise where we could collaborate on this. I haven't seen the olive branch that I've extended to you extended back to me. I'm not really sure why that is. I think it's a very simple request we're making here with regard to extracurricular activities and including them in this piece of legislation.

The final piece of the puzzle here, in terms of the subsection, is subsection (4), and that is regarding the school board as employer: "(4) Nothing in this act changes the status of a school board as the employer of its employees."

I think it's very important to note that we do now have the basis by which this bill is going to move forward. We have central tables that involve, in subsection (1) of this bill, which is the central table—it talks about the minister's role, it talks about school boards, teacher bargaining units and trustee associations and their role in this, but it also talks about what should also be known as the role of school boards as employers.

I think a lot of people actually don't know that our school boards are actually the employer of our teachers, or at least most teachers. There are obviously some exceptions. Not knowing that, they sometimes wonder, and this bill may clarify, what school boards do, what the government does. Simply put, I think that most people acknowledge that the government is the funder of our education system and our school boards offer the nuts and bolts of applying that funding to the front lines, to help teachers do their jobs and keep schools safe. There's a variety of other functions that school boards do. I think

it's important to outline at the outset, again, that they were an employer completely ignored in the process that led up to the last round of quasi-negotiations, I would say. The outcome of Bill 115 and some of the context surrounding that is obviously important to remember when we're devising an approach to this bill.

I think, at the end of the day, what everybody seeks is greater clarity. They want to understand what roles and responsibilities actually are applied to all parties in the negotiation process. I actually find that a very valuable exercise. I don't know if, in the process of doing that exercise, in the process of understanding what we're doing in this process—

The Vice-Chair (Ms. Lisa MacLeod): Mr. Leone, I regret to inform you that, although I found your deputation personally riveting, your time has elapsed. I will now ask other members of the committee if they have any comments at this time.

Mr. Peter Tabuns: No.

The Vice-Chair (Ms. Lisa MacLeod): Are you sure?

Mr. Rick Nicholls: I do.

The Vice-Chair (Ms. Lisa MacLeod): Okay, great. MPP Rick Nicholls.

Mr. Rick Nicholls: Thank you, Chair. You know, just coming into this particular committee, first of all, I want to thank the members for the opportunity of being here today and learning more about Bill 122, An Act respecting collective bargaining in Ontario's school system.

When I was first approached on this and we were looking over the definitions and so on, one of the things I didn't see in there as well was something that I would call "qualified teachers," that is, having the best teachers teaching our students, those who are most qualified—not from a seniority perspective. So I do have some concerns about that, because I recall, most recently, when there was a dispute where the teachers didn't go on strike, but they did what I would call a "work to rule." In other words, there were no extracurricular activities. They were told, "You will not provide any extracurricular activities."

That bothered me. It bothered me for a number of reasons. First of all, I do know that there were a number of students in the Chatham-Kent-Essex area, in the school system there, who were in fact unable to get athletic scholarships or even academic scholarships because of the fact that they were prohibited from doing extracurricular activities that would have and could have further developed their character, developed their leadership skills, developed their athletic potential. As a result of that, they missed out.

When you think about that—and I would call it a selfish act on the part of those instructing the teachers not to conduct extracurricular activities—that cost parents thousands of dollars because of the fact that their students were not allowed to engage in extracurricular activities. I have a real concern about that.

I think back to the time when I was a student and the various clubs and athletic programs that I was involved in. I think about the boys' athletic association, I think

about the drama club, I think about the glee club—yes, I was a singer as well—

The Vice-Chair (Ms. Lisa MacLeod): It doesn't surprise us.

Mr. Rick Nicholls: It doesn't surprise you.

Mr. Bas Balkissoon: Madam Chair, on a point of order.

The Vice-Chair (Ms. Lisa MacLeod): A point of order, MPP Balkissoon.

Mr. Bas Balkissoon: I think we are discussing section 2. You're being very lenient with both members and I think we have to stick to the definitions. We are also regurgitating a motion that we already voted on and I would ask you to ask the member to speak to section 2.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. Please keep your comments in context of what we are debating. Carry on.

Mr. Rick Nicholls: Happy to do so, Chair.

Again, when I look at the teachers' bargaining unit, the bargaining unit described in section 5, I look at trustees, I look at provincial school authorities, they all contributed to the challenge that was before our students.

The other thing that I'm concerned about, again, is the fact that parents are not included in this definition. I really think they need to be included in that because they have a right as well to know and understand the quality of education that their students are in fact receiving. I don't expect teachers to be the end-all and be-all, but they need to be aware of growing issues and concerns and demands that will better prepare our children today, as well as for the future.

I look at it and, referencing again the extracurricular activity of things, that builds character; it truly does, even in terms of athletic experiences. I remember the old ABC commercial, you know, "the thrill of victory and the agony of defeat." I painfully watch as that skier goes down that slope and goes out of control and I'm thinking, "When he hits, this is going to hurt," and sure enough. But you know what? It teaches you about life. It teaches you about life, realizing that life in itself is full of victories and defeats. It's not so much about the victories, it's about the defeats, because in defeat is when you learn the most about yourself, about life and about being a contributing individual in society today.

I look at athletics. It teaches a lot of things. To me, it's not about being what we'd call a "jock" per se. I was always, in basketball, maybe the first or second person off the bench. In baseball, I was a starter in that. In soccer, I was a starter in that. My point being, I look at the teachers who unselfishly gave of their time so that I could develop and so that hundreds of others, thousands of others, could develop. It's not just sitting and listening to math or history or geography or English or even, in my case, learning Latin—that was one of the most exciting classes I ever had. But my point being, these teachers gave unselfishly of their time and effort to students after school hours.

I really think that definition should in fact be included in there, because when you look at the length of time in a

teaching environment, it's probably five, maybe five and a half, hours of teaching. I don't know anybody here who gets full-time pay and in fact receives full-time pay for five and a half hours. They'll argue that point, I'm sure.

But again, the reality is—

The Vice-Chair (Ms. Lisa MacLeod): I'll just ask the member to direct his comments toward the motion.

Mr. Rick Nicholls: I will. Okay.

Again, I'm looking at this particular motion itself. Having said that, again, the extracurricular is really important.

Would you have anything else, Mr. Leone, that you would like to contribute to this?

1230

Mr. Rob Leone: Are you finished?

Mr. Rick Nicholls: Yes, I'm finished with this right now.

Mr. Rob Leone: I just want to reiterate something, Chair, if I have time—

The Vice-Chair (Ms. Lisa MacLeod): You have time. You have 20 minutes. Time is flying when you do that.

Mr. Rob Leone: You know, Chair, I think that it's important to note, again, some of the things—I think what Mr. Nicholls talked about in his very first comments—I would recategorize that. He stated qualified teachers, but what I'm suggesting he meant was the teacher hiring process based on merit versus seniority.

"Merit" is a word that is obviously worthy of definition. When I think of running for office in my community—I think members of this committee will attest, because they all had to go through the same process that everyone else had to, which was to put forth their name on a ballot, and the person who was deemed the most qualified by the greatest pool of voters was the one who won the day. We were judged on our merits and we continue to be judged on our merits. Certainly in the course of debating this piece of legislation, people will be moved either way—supportive or not supportive on our positions that we take, presuming, of course, that we're taking positions. I'm certainly speaking and I've spoken at length to this bill. I'm not sure if others on this committee have taken a position. Maybe there's a political calculation involved with not saying a single word on this particular piece of legislation other than on points of order, which, I guess, just inevitably chew up time and which I'll use to further elaborate on my ideas.

But the concept of merit, I think, requires a little bit of definition, because it is the process by which we make certain assessments and certain presumptions about the person who is best able to fill the position. I am a strong believer in that principle. I think that we should apply that principle, and that principle should be a standard-bearing principle of our province, let alone a principle that should be part of our deliberations on this bill.

Teachers are our most important asset in our schools in terms of how they teach and educate our children. Our children look up to teachers each and every day. We have great teachers in the province of Ontario. I've said that

over and over again and I will continue to say that, because our position on Bill 122 is nothing but to support parents and their kids. We obviously acknowledge that we have great teachers in our schools. We know that we have some questions about this piece of legislation, but in no way do we intend to make this a question of being for or against teachers, because we want to obviously show that we acknowledge the great work that our teachers do in our classrooms.

But how vacancies are filled in our schools, I think, is an important question and one that would be subject to debate. Through the previous process of collective bargaining that took place, we ended up with a regulation, which is regulation 274, that seriously affected the process by which teachers were going to be hired—what my colleague from Chatham-Kent-Essex was speaking to. During the process, if he was as attuned, as I know he is, to his constituents as I am—I know that young teachers were consistently lining up at our constituency offices to talk about how they can find work in a school board in the province of Ontario, particularly in some of our school boards that didn't have such a surplus of teachers that some other school boards do.

I know that it is a concern that young teachers have translated to us. It's something that I know that we, as a caucus, and—I don't want to mention the Chair in a very partisan way today, but there's a bill that she had brought forward in this Legislature, which I had the pleasure of supporting, and I know my colleague from Chatham-Kent-Essex did. It spoke to the principle of merit in how we deliberate over things so vital to the system as how we'd hire teachers to fill vacancies.

I actually think it is an important thing that we should be talking about. It's something that we should express. It should be something that we define. It should be something we debate, because I know that even in the course of the debate on that bill there wasn't agreement, clearly, from the other parties on what we had suggested. But I think if you talk to average Ontarians who send their kids to schools, their concern, obviously, is that their kids are learning and that their kids are inspired, as many kids across the province of Ontario are inspired, to learn. To create that thirst for learning is such an important element of it.

We suggest that merit is an important principle. I would suggest that merit includes, certainly, the qualifications of the teacher. It does factor in, obviously, the experience of the teacher, but it does more than that.

As a former educator myself, I know I was stronger in some subject matters more than others. That doesn't necessarily suggest that there are bad teachers or good teachers. It's just that some teachers are better at teaching certain subjects than they are in other areas. I can speak of that from a personal perspective, as a former educator.

If a school is looking for a particular teacher to fill a role—perhaps their math scores are suffering—perhaps it's an opportunity, if we're looking for new teachers in that particular school, to look at the competencies in mathematics and the special considerations that maybe they're in.

We had made a comment. I remember asking a question about one teacher—his name is Jason Trinh—who is on the long-term occasional teaching list, but he's so far down the seniority list that his prospects of getting a permanent full-time job were minimal. This is a person who actually won the Premier's teachers' award, yet he can't find a full-time position in our schools.

I think when we're talking about how we inspired so many students to actually achieve better in math, the extra work that he had done, the math clubs that he created to foster this amazing sense of curiosity amongst kids to learn math, which is something that we have trouble, as a society, coming around to—I think it's just such an inspiration. I think there are stories like that all over the province of Ontario. It saddens me as a legislator that a person like that is having so much difficulty finding a permanent placement in our schools as a result of a process and a regulation that does not value what I think should be defined as merit.

There are a variety of things that we can do and talk about on a daily basis that are important to parents and to students. We talked about extracurricular activities. It's something that we're going to continue to bring up in this committee, but it's also talking about a concept of merit and making sure that the vacancies that are filled are filled by the person who is a best match and a best fit.

I know that when we talk about this we obviously get the corollary effect: How do you determine merit? It's certainly a question that I'm happy to entertain and deliberate. We can throw ideas around this table if we can get some of the other MPPs to talk about this piece of legislation, but I think that there is a way. If there is a will, there is a way. There are smart people in our education system. They can come up and devise a way to make sure that we can get a good sense of merit and that we can eliminate what seems to be this prevailing issue that only plagues our schools, which is nepotism. I think there are some ways that we can do that as well by putting in place a proper process that obviously suggests that if you know somebody, or are related to somebody, the person doing the hiring is not taking part in the actual hiring process—

Mr. Bas Balkissoon: Madam Chair, point of order.

The Vice-Chair (Ms. Lisa MacLeod): Yes, point of order.

Mr. Bas Balkissoon: Madam Chair, I think you have to take control of the debate. The member has just spoken for eight minutes unrelated to section 2.

1240

The Vice-Chair (Ms. Lisa MacLeod): He's discussing the definition. I appreciate your point of order, but he's talking about the definition. I would ask the member, however, to be cognizant that he has to draw back to the motion and the definition in order for this to continue.

Mr. Rob Leone: Thank you, Chair. I'm surprised it's taken eight minutes. It means I have 12 more minutes to talk about some important definitions that we should be talking about around this committee table.

I'm just throwing ideas out here for the parliamentary assistant. He can grab on to any one of those ideas. I'm happy to continue to have debate on one of these things.

Excuse me for a second. There was something in my water there.

Merit, I think, is something that we should be considering in the definition phase of this bill. We don't talk about it at all. I think that it's a concept that a lot of Ontarians would appreciate some attention being given to. For whatever reason, it's something that we don't seem to understand.

In defining merit, going back to that whole extra-curricular activity discussion, there's some value in understanding whether some holes—whether the choir that lost a teacher to another school or to retirement, if that choir practice should continue with someone who is actually able to have some tone and pitch perfection. It would be far better than having that choir practice led by, say, someone like myself, who is a little bit on the pitchy side of things.

So I think there are elements when we talk about merit and the kinds of teachers who can fill vacancies where that kind of equation might be important to the schools, to the students. There could be some mechanism built into place where we actually consult not just principals, not just teachers, but also parents and students about the kinds of teachers they want in their schools. Right now, we provide absolutely no guidance in our hiring process to those kinds of concerns, to those kinds of issues. When we talk about something so important to parents and students as the curriculum and the teacher in front of the classroom teaching it, we should be entertaining those conversations. We should be talking about a concept like merit.

Now, the corollary of that argument and debate about merit is perhaps a definition of seniority. If you don't want to have a debate or discussion or include an amendment on merit, as I think Mr. Nicholls and myself would like to do, then maybe I'll throw this out: You want to actually include a definition of seniority in your particular piece of legislation.

I've heard from lots of teachers who say that the only objective way of filling a vacancy is by having the most senior person get the job. I think there's certainly a debate we could have about that, on whether that is, in fact, the case. I've met with a number of education partners in the course of being the critic for education for the Ontario PC caucus. In the process of talking to these stakeholders, they always question this concept of such rigid rules revolving around seniority. Seniority, simply, if we want to add a definition, would obviously involve how much time you've been teaching in a particular school board, but interestingly enough, when we talk about seniority, it doesn't actually include how long you've been a teacher. If you've been a teacher for 20 years and you've been a teacher at your first board for 12 years, then you go to another school board for eight years, the seniority has actually changed. You don't have 20 years under your belt anymore, which has implica-

tions for a number of things. I've had constituents of mine, who are teachers, who have been part of this process of switching boards, who have been challenged by some of the things that were part of Bill 115.

So those are certainly concerns that have been raised in my own constituency, and I'm sure that other members would have had or faced the same sorts of issues of concern.

I do want to stress that this is an opportunity with this particular section, section 2 of this act, which is the definitions section, to include some of the things that we think are important. I've heard from Mr. Nicholls what he thinks is important. You've certainly heard at length what I think is important; I think I've probably talked about this section for well over an hour now.

I do want to state for everybody's knowledge that this is an opportunity for us to have this debate and discussion. We want to go through the clause-by-clause proceedings of this particular piece of legislation. Without understanding what those definitions might be from other members of this committee, we can't enlighten this bill. I would suggest to the members of this committee that if they have some opinions or ideas about any of the kinds of definitions we should include, please speak up. Please talk about them, because I think it would enrich the ability to go through this particular point of view.

I want to open the floor, if I can, to cede my time, if I have much left, to members of this committee to talk about some of those definitions they want to include. I want to make sure you understand that there is an opportunity to speak up. We will have an opportunity to debate this further, and that's why I want to encourage you to represent your constituents, to represent your stakeholders even, by agreeing or disagreeing with some of the things that I have mentioned in the process of talking about or debating this bill.

Madam Chair, I will, for now, cede my time to other members who would like to make a contribution, an important contribution, to Bill 122. I have been waiting for several hours now to see such a contribution from members outside the PC caucus and I would encourage members of the government and the NDP to speak up. Let's hear your voice on these particular matters. Thank you, Madam Chair.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much. I appreciated your comments. Any further comments on this section by any other members? Are the members ready to vote?

Mr. Peter Tabuns: Ready to vote.

Mr. Rob Leone: On a recorded vote.

The Vice-Chair (Ms. Lisa MacLeod): On a recorded vote.

Ayes

Balkissoon, Crack, Dhillon, Mangat, Mantha, Tabuns.

Nays

Leone, Nicholls.

The Vice-Chair (Ms. Lisa MacLeod): Moving on, shall section 2—

Interjection.

The Vice-Chair (Ms. Lisa MacLeod): Oh, that was it. Section 2, as amended, does carry.

Any debate on section 3? Yes, Mr. Leone?

Mr. Rob Leone: Madam Chair, I want to thank you once again for recognizing me. It's such an important piece of the bill. People have so little to say about it, yet we have almost 100 amendments that are before the committee that people want changed. I'm kind of curious about when we're actually going to hear someone talk about some of the points or perspectives in this bill.

Section 3 of this piece of legislation, for honourable members who don't have the bill in front of them because they're not reading it or for members of the gallery who are perhaps following or people from home who are looking at the proceedings—section 3 of Bill 122 is several pages long; it's a 28-page-long bill and we're only on page 4. It's a bill that has or contains 55 sections, and now we're only proceeding to section 3 of this piece of legislation, mostly because we've tried to come to an agreement on including the withdrawing of extracurricular activities into this piece of legislation. Seeing that we don't have that there, we are stuck with going through clause-by-clause in a very deliberate manner, and so we will analyze and look at every single word that is in this piece of legislation.

1250

I do think that there are some obviously valuable components to this bill. I think that, obviously, every section is written in a particular manner, and some of those things that we see in legislation, for members of the public, are typical in multiple pieces of legislation, if not all pieces of legislation.

So we actually do need to know this section's purpose—what the application of this act is going to be—which is a pretty standard feature in legislation. How is this act going to apply? Who does it apply to? In the process of saying who this act applies to, we can, at that time, also talk about who this bill does not apply to.

We always have a to-and-fro. We can always talk about the application of this act and who it applies to. We can also talk about the fact of who this bill does not apply to. There is an important element, I think, that we can have a good discussion and good debate about. We can talk about this.

This particular section has, again, four subamendments, so we'll go through those four subamendments in the 20 minutes that I have to do that. I certainly hope that other people might have some comments with respect to these particular aspects of the bill.

The first subsection is the application of the act: "This act applies to every school board in Ontario, to the bargaining agents that represent employees of those school boards and to the employees represented by those bargaining agents."

Again, if we can just briefly go back to the previous section, you'll see how these kinds of things are set up.

You have to talk about who an employee is, who the employee belongs to and, if you remember from our discussion—or at least my discussion on section 2, because no one else other than my colleague from Chatham–Kent–Essex decided to say something about it—my discussion talked about who the employers of teachers are. I think there is sometimes some confusion as to who those employers actually are.

This act applies to every school board in Ontario. There are lots of school boards. I know that in my riding of Cambridge we are part of the Waterloo Region District School Board and the Waterloo Catholic District School Board. There is also a French school board that encompasses French schools in my riding, as they do right across the province.

The geography for those French schools—particularly in my part of the province and in Mr. Nicholls' part of the province—is actually quite extensive, so these school boards have a lot of territory to cover. Even though the number of students might not be as excessively high as in some school boards, the territory which these trustees are driving and the school boards are administering, particularly for French schools, is particularly large.

In that vein, I think it's important to suggest that we have to consider the implications that this particular piece of legislation has on school boards. The reality of it is that, in the absence of a process last time, school boards were ignored. This bill wants to make sure that the school boards aren't going to be ignored anymore.

This act does apply to every school board, from Kenora to Cornwall, from Toronto to Trenton, and from Windsor to Waterloo. Everywhere in the province of Ontario, this bill is going to apply. Of course, as we are governing this province, it makes a great deal of sense that you would include those school boards in a piece of legislation. You wouldn't want to exclude, say, your ridings' boards, or mine, or anywhere else in the province. The point of this bill, this piece of legislation, is to standardize the approach to all school boards.

Having said that, there is an ability—as we learned, again, in the definitions section of this bill—to have some local nuances negotiated between the school boards and their teacher federation locals. That prospect is preserved here; while it does preach uniformity and a standardized approach on one end, there are some local issues that can be negotiated on a local-to-local basis.

I think there are important elements that these school boards and the employees, represented by their bargaining agents, bring to the table. I want to stress that I think everyone has a role in this process. The school boards have a role in this process: They will advocate, obviously, for the school boards and some of the matters that they're dealing with on local issues. The teaching federations have a role in this, and I think they play that role to the greatest extent possible in terms of trying to advocate for teachers. The Minister of Education has a role and responsibility in this process as well. But I think all members of this Legislature actually have a role and responsibility to this as well.

So when we talk about the application of this act, we have to see it in that context: There are times when we see the application being evenly doled out, and there are aspects and some prospects of these things that are just simply being left out on an ongoing basis.

Here's the thing: In the even application of this to all school boards in Ontario—I can't tell you how many emails I've received that have suggested the unevenness of the application of Bill 115 in the memoranda of understanding that have come thereafter. So many emails talked about the uneven application of the collective bargaining process.

I can see why, obviously, those teaching union locals would be upset that in one part of the province they are being subjected to different rules and an application of rules that's different than in other parts of the province, and in the process of analyzing, discussing and debating all of that, we have an opportunity to discuss these things.

I do want to state, too, that there is a second subsection to this act: "This act applies to every employer bargaining agency and employee bargaining agency designated under this act to represent school boards or employees for central bargaining purposes."

That's subsection (2) of this act: "every employer bargaining agency and employee bargaining agency designated under this act to represent school boards or employees for central bargaining purposes."

Again, we see now that this act, from the definitions stage, is starting to put some meat behind what this bill is supposed to do, which is to set up the tables and to set up the local and central terms, and we see that the application of this act does so in a particular manner that is consistent with what we've talked about in the previous section.

Of course, the application of this act—and in doing that, we see the evolution of how a process evolves in the design and building of legislation, which is why, in the previous section, we sought to include co-instructional activities in this process. So there are aspects that we have to consider with that as well.

How much time do I have, Chair?

The Vice-Chair (Ms. Lisa MacLeod): You have 10 more minutes.

Mr. Rob Leone: Ten more minutes.

The other thing I would like to suggest is that we have a third subsection, and what this says is: "Despite subsection (1), this act does not apply with respect to employees of a school board who are or become bound by a provincial agreement within the meaning of subsection 151(1) of the Labour Relations Act, 1995, or with respect to a trade union that represents them for collective bargaining purposes."

Sorry, I had to—I maybe require a little bit more water here.

So this is the thing: What this piece of legislation is suggesting right here in this section is that we actually have to analyze, explore and examine this legislation in parallel to what's happening in the Labour Relations Act. That's important, because this bill obviously does affect

or have some potential consequences for the Labour Relations Act.

It also affects and has some consequences for the Education Act. When we talk about affecting multiple pieces of legislation, we do come to the opportunity of calling this an omnibus bill. As we learned earlier in the previous section, section 1, where this bill does affect the Labour Relations Act, where it does also affect the Education Act—any time you have a piece of legislation that affects two or more separate pieces of legislation, the application of the term “omnibus” is used.

1300

I can't tell you how often that word is used in a very negative context. People don't like omnibus pieces of legislation. It's interesting to note that some of the very people who don't like omnibus pieces of legislation in one context may actually like omnibus pieces of legislation in a completely different context. I just want to make light of that, because it's interesting how different varying opinions will become in how you define the process by which we're going, or undertaking, today.

Again, we have to understand that there are some Labour Relations Act implications for this. There is an important aspect and element that we have to consider in conjunction with what's happening with the Labour Relations Act. Subsection 151(1) of the Labour Relations Act, 1995, has been identified as one of those subsections that's important. It also says, as a preamble to that part of it—so subsection (1) was, “This act applies to every school board in Ontario, to the bargaining agents that represent employees of those school boards and to the employees represented by those bargaining agents.”

We have to understand that they're obviously—it's like you're matching two columns together. You put a line to the object that best reflects what you're trying to say, or the picture. If you're saying “food” and you have five different pictures, you're not going put a line to the soap or to the TV, but you're going to put a line to the sandwiches or the fruit or the lack of cookies that are now present in this committee—from no fault of my own, I might add.

The Vice-Chair (Ms. Lisa MacLeod): Could the member please direct his comments to the bill?

Mr. Rob Leone: Yes. Was that to me? Okay, I'm sorry. I apologize. That lack of cookies, it's crazy—

The Vice-Chair (Ms. Lisa MacLeod): What's wrong with the cookies?

Mr. Rob Leone: You're trying to draw a line to the different things that this affects. Sometimes when you're talking to members of the public, they have some difficulty understanding exactly what's affected, what you mean, how does it affect this. I think it's important to actually have an approach that suggests that the application of law and legislation is very specific to who it applies to. We're talking about our public education system clearly in this act. We're not talking about certain elements of private schools or any elements therein. Particularly, although this might change with our legislation that may be before this, we're talking about primary

school from junior kindergarten to grade 12. That is in essence what students are doing. So we're not talking about applying this piece of legislation to students who are preschool or before—toddlers or infants or preschoolers—specifically in this piece of legislation. We're not talking about people who are in our colleges or in universities, in the post-secondary institutions that might define this. The application of this act is very specific to the public education system from JK to grade 12. That's important for all people to understand.

Having this opportunity to discuss and debate particularly sections like this provides myself with an opportunity to talk to the public, because they might not understand exactly what is going on with this piece of legislation. We have to be able to have an opportunity to look specifically at these sections. I would encourage members of this committee to do that.

The final subsection here is, “(4) This act binds the crown.” Most people who are part of our parliamentary system would know that the crown is how things get enacted. We have, obviously, a legislative arm that is important. We have these debates. We have a government that proposes legislation and an opposition that holds the government to account. That is our job. That's what we do on a day-in, day-out basis. Sometimes the government doesn't like the fact that we're pointing out some of the shortcomings of their government, but again, that's part of the process which we're going through.

The government will propose legislation much like Bill 122 that says that we need to act in a particular manner with respect to collective bargaining, that we have to have the tables, that we have to have the crown involved—the crown being the minister as a representative of the crown—that we have to have the school boards at the table and the teacher unions. The fact is that we have the crown in our legislative process represented by cabinet and the government—which is the government. Sometimes I get in the public and they say, “Well, you work for the government.” In fact, I don't work for the government. I work to oppose the government. That's my job. I try and make that clear to people as much as I can.

But the government's job, obviously, is to administer the public service, administer different ministries, administer the laws and apply the laws as evenly as possible. Through the advice of cabinet as a collective and through the assent and consent of the Legislature, bills receive royal assent and the crown acts as one, as a unifying body in our parliamentary system to actually do things. We do things in the name of the crown in our democratic process.

Not to sound overly academic about this, as this is something that I used to teach in Political Science 101, but I've offered, obviously, a very simplistic approach to what the crown is in our parliamentary system. But it is a vital element that I certainly respect and admire as part of what we do here in our legislative system.

Those are the four subsections of section 3 that we're debating here. It took a member of the opposition to actually explain what those subsections are. I do, once

again, appeal to the committee to talk about some of these issues that are important to them. This bill is a vital piece of public policy in the education sphere. I would encourage all members to take the time to review the contents of this bill so that we can get the best bill possible for teachers, for school boards, for parents and for students.

Those are my initial comments, Chair, and I'd welcome any other comment from another member of this committee.

The Vice-Chair (Ms. Lisa MacLeod): Any other comments from the members of the committee on section 3? Any other comments? Last call before we go to a vote.

Mr. Rob Leone: Can we have a recess, please?

The Vice-Chair (Ms. Lisa MacLeod): A 20-minute recess.

The committee recessed from 1308 to 1328.

The Vice-Chair (Ms. Lisa MacLeod): We are now going to vote on section 3 of Bill 122. All those in favour? All those opposed? The section is carried.

I will now move on to section 4 of the bill. We have an NDP motion, number 2.

Mr. Peter Tabuns: Withdraw.

The Vice-Chair (Ms. Lisa MacLeod): Mr. Tabuns withdraws.

We now go to motion 3(r). It's a government motion.

Mr. Bas Balkissoon: Withdraw.

The Vice-Chair (Ms. Lisa MacLeod): Withdrawn.

We now go to 3(r).1, a government motion.

Mr. Bas Balkissoon: Withdraw.

The Vice-Chair (Ms. Lisa MacLeod): Withdrawn.

Mr. Bas Balkissoon: Can I introduce a new 3(r).1?

The Vice-Chair (Ms. Lisa MacLeod): Pardon me? Is it 3.1?

Mr. Bas Balkissoon: I have a new motion.

The Vice-Chair (Ms. Lisa MacLeod): You have a new motion?

Mr. Bas Balkissoon: Yes, to replace this.

The Vice-Chair (Ms. Lisa MacLeod): Okay.

Mr. Bas Balkissoon: It's in the package.

The Vice-Chair (Ms. Lisa MacLeod): Is that 3.1?

Mr. Bas Balkissoon: It's 3.1.

The Vice-Chair (Ms. Lisa MacLeod): Okay. Now we're at government motion 3.1. Mr. Balkissoon.

Mr. Bas Balkissoon: I move that subsections 4(2) and (3) of the bill be struck out and the following substituted:

"Same, limited application to the crown

"(2) However, the Labour Relations Act, 1995 applies to the crown only to the extent necessary to enable the crown to exercise the crown's rights and privileges and perform the crown's duties under this act. For all other purposes, subsection 4(2) of that act governs the application of that act to the crown.

"Same, re: related employers

"(3) Without limiting the generality of subsection (2), subsection 1(4) of the Labour Relations Act, 1995 does not apply to the crown.

"Same

"(4) Under subsection 1(4) of the Labour Relations Act, 1995, a school board cannot be treated as constituting one employer with a trustees' association."

The Vice-Chair (Ms. Lisa MacLeod): Mr. Balkissoon, I'm just curious. What are you doing with number 3 that appears next in the package?

Interjections.

Mr. Bas Balkissoon: I have to see—3r and 3r.1, I would remove.

The Vice-Chair (Ms. Lisa MacLeod): And then we have 3—

Mr. Bas Balkissoon: Oh, the main package. That is being withdrawn. I'll check to make sure.

Yes, that's being replaced.

The Vice-Chair (Ms. Lisa MacLeod): So in the original package—

Mr. Bas Balkissoon: Is replacing—

The Vice-Chair (Ms. Lisa MacLeod): —is replacing 3.

Mr. Rob Leone: Can we have a recess to figure this out?

The Vice-Chair (Ms. Lisa MacLeod): We have a request for a five-minute recess to figure this out.

Interjections.

The Vice-Chair (Ms. Lisa MacLeod): Okay. We'll take five minutes.

The committee recessed from 1331 to 1332.

The Vice-Chair (Ms. Lisa MacLeod): We're back in committee. Just so we're clear, you're removing 3 from the original package to deal with 3.1—

Mr. Bas Balkissoon: And replacing it with 3.1.

The Vice-Chair (Ms. Lisa MacLeod): So you've withdrawn that. Okay.

Mr. Rob Leone: Can someone just show me what we're doing?

The Clerk of the Committee (Mr. Trevor Day): Just to clarify for members, everything submitted will remain in the package and they'll be renumbered. You will have to say whether or not you're moving it. Even if you name it as a replacement, it'll be in the packages so that we don't pull anything out—

The Vice-Chair (Ms. Lisa MacLeod): So do we need him to formally withdraw?

The Clerk of the Committee (Mr. Trevor Day): No, he's fine.

The Vice-Chair (Ms. Lisa MacLeod): Okay. You're fine.

Mr. Bas Balkissoon: It's just a replacement.

The Vice-Chair (Ms. Lisa MacLeod): Is there discussion on this amendment?

Mr. Bas Balkissoon: I can make a couple of opening remarks, Madam Chair.

The Vice-Chair (Ms. Lisa MacLeod): Okay.

Mr. Bas Balkissoon: This motion would clarify the crown's role and obligations in bargaining at a central table by adding that its duties, as well as its rights and privileges, can be enforced at the Ontario Labour Relations Board, including the duty to bargain in good faith.

The motion has been amended so that the relationship between school boards would be included within the scope of the related employer provisions of the Ontario Labour Relations Act, 1995.

This section protects the existing bargaining rights of the support staff unions. The motion would continue to exclude relationships between school boards and trustee associations and would confirm that the related employer provisions do not apply to the crown.

The Vice-Chair (Ms. Lisa MacLeod): Any further comments? Mr. Leone.

Mr. Rob Leone: Can I ask for some clarity in terms of what this new subsection does that the previously written section does not do, or vice versa: what it doesn't do that the previous does, either by the parliamentary assistant or by the lawyer?

Mr. Bas Balkissoon: If I go through, I think it's just a technical amendment of the choice of words. I'll have to find you the exact word.

The Vice-Chair (Ms. Lisa MacLeod): Okay. Legislative counsel can assist us.

Mr. Rob Leone: Yes.

Ms. Laura Hopkins: If you're comparing motion number 3 in the original package and motion number 3.1, the motion that has been moved, motion number 3 in the package, if you look at subsection (4)—I'm going to ask you to start reading with "treated as constituting one employer with another school board or a trustees' association." That portion of subsection (4) has been changed. If you now look at motion number 3.1 and you look at the same start-up words, "constituting one employer with a trustees' association," the reference to "another school board" has been removed from subsection (4).

Mr. Rob Leone: And what's the net effect of that? What would be the reason for dropping that part out?

Ms. Laura Hopkins: I can't help you with the reason.

Mr. Rob Leone: Yes. I'm just asking—

Mr. Bas Balkissoon: Just one second. I'll ask folks from the Ministry of Education, because I think there's a technical reason for separating them. We're going to get the staff to come in. There is a technical reason for having them separated.

The Vice-Chair (Ms. Lisa MacLeod): Would you like us to recess whilst they get here?

Mr. Bas Balkissoon: He's just outside.

Mr. Rob Leone: I'll move a two-minute recess, if we can ask.

Mr. Bas Balkissoon: Can we take a two-minute recess, Madam Chair? Hopefully, he'll be back. I think he went out to make a phone call.

The Vice-Chair (Ms. Lisa MacLeod): Okay. Two-minute recess.

The committee recessed from 1335 to 1337.

The Vice-Chair (Ms. Lisa MacLeod): I would like to invite the ministry staff to come up. Please state your name for the purposes of Hansard, and then you can continue.

Mr. Tim Hadwen: Tim Hadwen from the Ministry of Education.

Mr. David Strang: David Strang, counsel with the Ministry of Education.

Mr. Bas Balkissoon: The question is being asked, what would be the technical change between 3 and 3.1 and the reason for it?

Mr. Tim Hadwen: The change is?

Mr. Bas Balkissoon: The original 3 and then the revised 3.1.

Mr. Tim Hadwen: The change is the removal of the reference to "school board" in the limitation on the operation of the related employer provisions so as to permit the possibility of a related employer application being brought between two school boards, opening up the possibility of an application to the Labour Relations Board for a related employer finding between two school boards, in the event that it was viewed by the Labour Relations Board that the two school boards were engaged in being one employer for the purposes of labour relations.

Mr. Rob Leone: Can I continue?

The Vice-Chair (Ms. Lisa MacLeod): Yes.

Mr. Rob Leone: So by removing the reference to school boards and just talking about the trustees' association as an umbrella, you avoid a potential legal application. Is that the rationale?

Mr. Tim Hadwen: What it does is it expands the potential legal application to permit the potential for there to be application of the related employer provision between two school boards. There continues to be an exclusion for the crown and for trustees' associations. With the crown excluded and the trustees' associations excluded, the remaining scope for applicability is between a school board and a non-school-board form of entity, and a school board and another school board.

Mr. Rob Leone: That sounds very legal. What's the purpose? I don't know who is the best to direct the question to, Chair. This requested amendment adds another subsection to the act, subsection (4), which suggests, "Under subsection 1(4) of the Labour Relations Act, 1995, a school board cannot be treated as constituting one employer with a trustees' association."

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My question is, why is there the addition of this? What's the clarification sought between having this line in and this line out?

Mr. Tim Hadwen: I believe that was the issue that I was just addressing.

Mr. Rob Leone: Okay. So in the process of not having this, we revert back to what we were dealing with, which is basically what's enumerated in this act, if we don't pass this amendment, essentially?

Mr. Tim Hadwen: If this amendment isn't passed, then the result would be that the original provisions would apply. The original provision further limited the potential scope and application of the related employer provision to a smaller grouping—that there would be less entities in respect of which there could be a related employer application made.

Mr. Rob Leone: Forgive me, I'm not the greatest of experts on the Labour Relations Act, but when we're talking about subsection 1(4) of the Labour Relations Act, what are we talking about?

Mr. Tim Hadwen: I'll turn it over to Mr. Strang to explain subsection 1(4) of the act.

Mr. David Strang: It's commonly referred to as the related employer provision. What it does is it allows an application to be made to the Labour Relations Board to declare that two separate entities—say, two corporations or a person and a corporation—should be treated as one employer for purposes of the Labour Relations Act.

Commonly, it's used if somebody is running a business where they've got one corporation owning the building, one corporation employing the staff, and one corporation doing something else and people are transferring between those corporations. The board can say, "Well, for the purpose of labour relations they're all one employer."

Mr. Rob Leone: Okay. Do you have any questions?

Mr. Todd Smith: Yes. Has there been a precedent set in the past where this has been an issue when it comes to dealing with labour relations in the public education sector? Why is it necessary, pertaining to Bill 122, to have this language included?

Mr. David Strang: I'm working here from memory and I don't have an encyclopedic knowledge of all the cases. But the related employer provision has applied to school boards in respect of non-teachers, presumably for as long as one can remember. I believe there have been some applications made. I don't believe any of them have got so far as to result in a decision, but obviously I'm working from my own knowledge. I think there have been a few cases that have settled.

Mr. Todd Smith: Is there a scenario that you could draw us to where perhaps this language does become necessary to include? I mean, it would seem to me that the school boards are responsible as employers. Correct?

Mr. David Strang: They are the employers, yes.

Mr. Todd Smith: So can you draw me to a scenario where this language becomes necessary in there?

Mr. Tim Hadwen: Yes. A circumstance could arise where a school board was structuring its affairs in connection with a subsidiary entity or some other entity that it was related to about which the Labour Relations Board might find it appropriate for those two different things or two different entities—the school board and its subsidiary or the school board and a related entity—to be treated as one employer for purposes of labour relations. In other words, for example, there should be one bargaining unit for both of those employers so the employees could be commonly pooled even though there were two entities involved, because, in fact, from a labour relations point of view, those two entities should be treated as one entity for purposes of collective bargaining and there being one bargaining unit representing the employees, whether they worked at the one location or for the one entity or the other.

Mr. Todd Smith: Okay. These changes were brought forward in a government motion. In examining the bill, there must have been an alarm bell that went off at some time that deemed that this language was important to include. Can you tell me how that occurred or when that occurred? It's a government motion. This is a government bill. I'm just curious as to how this motion came about.

Mr. Tim Hadwen: One of the issues in dealing with labour relations legislation and its applicability in different sectors is always the application of section 1 for the Labour Relations Act and what entities could potentially be related to other entities, so it's a standard part of the consideration of labour relations legislation with respect to any sector. The issue will arise about whether or not there would be a related employer provision between, say, an entity practising or operating in a sector and the crown itself in government. So the issue will always come up and commonly needs to be addressed in any circumstance when it's contemplating labour relations in the broader public sector.

Mr. Rob Leone: I have another question.

The Vice-Chair (Ms. Lisa MacLeod): Okay. Mr. Leone.

Mr. Rob Leone: Since we have you here, we'll try to get our questions put to you as—

Mr. Tim Hadwen: We're not going anywhere.

Laughter.

Mr. Rob Leone: The original bill, subsection 4(3), stated, "No person is entitled to make an application to the Ontario Labour Relations Board under subsection 1(4) of the Labour Relations Act ... with respect to a school board." Does that mean that if the original subsection that I'm referring to is kept in place, it would be difficult to bring an application under the Labour Relations Act with respect to the school boards? Is that the main reason for revising that subsection?

Mr. Tim Hadwen: With respect to 1(4). With respect to the application of 1(4) absent the change, there couldn't be a 1(4) application brought with respect to a school board.

Mr. Rob Leone: So that would seriously limit the Ontario Labour Relations Board intervening in school board matters? Is that what that suggests?

Mr. Tim Hadwen: That would further limit the application of section 1(4) to mean that it could not be brought in respect of a school board at all.

Mr. Rob Leone: I'm as curious as Mr. Smith is in terms of why such a provision would have been put in place in the first place, but I respect that you're probably not able to answer that question specifically.

Mr. David Strang: Perhaps I could be helpful on that.

Mr. Rob Leone: Oh, could you?

Mr. David Strang: Currently, the Education Act covers the labour relations of teachers, and the application of 1(4) is excluded in that act. The Labour Relations Act covers the labour relations of non-teachers, and section 1(4), as I say, has applied to non-teachers for as long as I've been practising law.

Mr. Rob Leone: Okay. That does provide more clarity.

Mr. David Strang: So this act covers both teachers and non-teachers.

The Vice-Chair (Ms. Lisa MacLeod): Further questions? Shall we put this to a vote?

Mr. Rob Leone: No. I think we should have some debate.

The Vice-Chair (Ms. Lisa MacLeod): We would like to debate it. Okay. Mr. Leone, do you have comments?

Mr. Rob Leone: Yes. I'm pleased that we're actually starting to see some other people talk about Bill 122 and its application. I have noticed with interest, and I will note with interest, that there were a number of amendments put forth on this particular section, so there is some issue to debate what the section actually does. I think it's also important to note that there is this link between the Education Act and the Labour Relations Act that is important. What we just heard from the ministry is that we have to have provisions put in place for both teachers and non-teachers, and I think that's certainly a discussion worthy of having.

Now, I know a lot of people, when they start talking about the Ontario Labour Relations Act—it's a very dense document. It's a very thick document. It's one that tries to spell out the processes that are undertaken in labour relations in the broader society, in terms of employer-employee agreements and so on and so forth.

1350

Education is held to a special standard, of course. We have some particularities involved that are spelled out in the Education Act that are important. I state that because one of the things we have consistently said with respect to this bill is our desire to see some legislation that does, in fact, talk about and speak to the issues we're continually raising with regard to extracurricular activities. We have an opportunity in the Education Act to further protect the continuation of co-instructional activities in our schools. That's why we have an Education Act: to talk specifically about those aspects.

The Ontario Labour Relations Act, obviously, is just talking about labour relations in a variety of sectors in addition to education, so we obviously have to combine the two acts and look at this particular piece of legislation side by side with the Labour Relations Act and the Education Act. I note with interest that there are aspects of both acts that are actually embedded—either specifically, as this one is, as we point to a subsection of the Labour Relations Act, subsection 1(4), that has this to and fro.

I'm just particularly interested that, in the course of spending months and months on this legislation, we've seen about three or four different potential amendments that this bill could go through. We're now entertaining one amendment; that is, we're trying to provide further clarity.

I will note for the record, Chair, that one of the things that we're adding to this section, particularly subsection 4(2)—as you recall, this amendment is striking sub-

section 4(2) and subsection 4(3) from the original piece of legislation, and adding three other subsections. It's taking two subsections away and putting three subsections in, just to provide some further clarity on what's worded.

I want to take the committee through the difference between this amendment and what's outlined in the act that is different. For example, if we look at subsection 4(2), it suggests in the act, "However, the Labour Relations Act, 1995, applies to the crown only to the extent necessary to enable the crown to exercise the crown's rights and privileges under this act. For all other purposes, subsection 4(2) of that act governs the application of that act to the crown."

The difference that we're seeing in this particular subsection is the addition of five words into the subsection. The new subsection says, "However, the Labour Relations Act, 1995, applies to the crown only to the extent necessary to enable the crown to exercise the crown's rights and privileges and perform the crown's duties under this act." The words "and perform the crown's duties" are added to this subsection. That's what my colleague Mr. Balkissoon had suggested when he wanted to move this subamendment.

We're asking that the legislation, particularly in relation to subsection 4(2), include the words "and perform the crown's duties." I wonder why we have to list that. I wonder why we actually have to define that, because I think the assumption is that the crown will perform its duties. Actually spelling out that they must perform their duties is, I think, a very interesting twist to this particular piece of legislation, insofar as the implication is, in the absence of this particular subamendment, whether the crown will be bound to actually perform its duties or not. I mean, that's the way I take this subamendment. Perhaps others on this committee might not take this subamendment quite the same way, but it does add these specific words—I'm interested to know for what reason they were added—"performing the crown's duties" and "perform the crown's duties," as if they had to spell out that the minister and the ministry had to do their job. I'm not totally opposed to that. I think that's a good, robust statement that we should get from the—and if we can embed that into legislation, I think that's a good thing.

Then we look at the next subsection, and it's (3). I should look at this. The title of subsection (3) in the original legislation was "Restriction re: related employers." That title has now changed to "Same re: related employers."

After that point, subsection (3) is completely different than what is actually written in the legislation. The legislation states in subsection 4(3)—so section 4, subsection (3), if you're following—that "No person is entitled to make an application to the Ontario Labour Relations Board under subsection 1(4) of the Labour Relations Act, 1995 with respect to a school board."

We heard from the ministry staff exactly why that might be, why the case is. It would prevent, I would as-

sume, some future applications to be heard that may not have been possible with what existed in the particular piece of legislation.

This subsection, this amendment, adds another subsection, as we have stated before—sorry; before I get to that, I should state what the new subsection says, for clarity. Subsection 4(3) says, “Without limiting the generality of subsection (2), subsection 1(4) of the Labour Relations Act, 1995 does not apply to the crown.”

So we see between the new version and the old version that we’re changing who this applies to from the school boards to the crown. There’s a very deliberate attempt to understand the differing labour relations involved with respect to those certain things.

As I mentioned, this section now, with the amendment that was proposed by my honourable colleague, adds another subsection, which is (4), to this bill. It says, “Under section 1(4) of the Labour Relations Act, 1995, a school board cannot be treated as constituting one employer with ... a trustees’ association.”

So we have some greater clarity that is provided with this particular amendment that is quite different than the intent that was originally written in the legislation.

My great question as we move along—and we’ve seen a variety of particular attention to this section—is, in the process of spending so much time, in the process of understanding the variability and negotiating and consulting with our partners in education, why we missed certain aspects of this bill, much like we have with this section.

It has received quite a great deal of attention. I know my colleagues in the other two parties have both raised some perspectives that came through, as I understand, a public hearing process that, as we’ve stated before, was too limited in scope, with not enough time given to actually hear and listen to those concerns. I just wonder, if we actually had more public hearings, how many more amendments like this we’d actually find in the review of Bill 122. It’s a pretty interesting question that I’m sure we’ll get to at another time.

This is, again, the amendment—I think the clarity that it provides is important. I think that the elaborate omission and rushing through, perhaps, the writing of this particular section seems to more correctly assess what is transpiring with this particular piece of legislation, and I would encourage members to provide their comments on this amendment.

I think that we have two versions here that are worthy of debate, and I look forward to listening to my other colleagues’ comments and questions regarding this section.

1400

The Vice-Chair (Ms. Lisa MacLeod): Further debate? Mr. Smith.

Mr. Todd Smith: It’s a pleasure to join debate on Bill 122 here this afternoon. Section 4 is where we are, and I know we have asked some questions of Ministry of Education staff who are here today. We do have some issues still to debate with this section. I believe, as my colleague Mr. Leone just indicated, there are still a

number of questions outstanding when it comes to this section, which is, again, section 4, “Application of the Labour Relations Act, 1995.”

It has been very clear that the Labour Relations Act is a complex piece of legislation. One thing that has been pointed out that we are obviously interested in learning more about is the links between the Education Act and the Labour Relations Act. It was made clear that there was some concern in this section from the staff, obviously, and that prompted this government motion 3.1, which we’re debating now.

As was pointed out by the staff, and we thank them for their answers on this, it removes a reference to a school board possibly opening up an application, and that clarifies this process so that we know exactly where we’re headed when we get down to the link between the Labour Relations Act and the Education Act.

I know one of the points was made that there are many employees and some teachers, not all teachers, there are non-teaching staff who are included, when dealing with this as well—that was one of the concerns actually that I heard an awful lot about when we look back at what occurred in September 2012 in regard to Bill 115. There were the teachers’ federations and the teachers’ unions that obviously were involved, but there were many non-teaching staff who, in my discussions with them, referred to themselves almost as “collateral damage” in the process. I think those were the words that they used throughout this.

This was largely controversial for the teachers and the current government and the issues that existed there when it came to Bill 115. But also lumped into that were the non-teaching staff. There were clerical staff, the custodians, educational assistants who work in our schools, who don’t have the same compensation, to be quite honest, that many of our educators do, who were affected negatively by what occurred. I had a number of meetings in my constituency office in Belleville with those employees. They were very concerned about what had happened. In their words, again, “innocent bystanders” is the way that a lot of them referred to what happened in September 2012.

So you can understand how we want to make sure the definitions are very clear. I think we’ve established in some previous sessions that the definitions must be clear. Of course, we were pushing very strongly here in the Progressive Conservative caucus to include the definitions of “co-instructional” and “extracurricular activities” in the bill, but we’ve already established here today that that has been voted on—

The Vice-Chair (Ms. Lisa MacLeod): Just a reminder: We’re on section 4.

Mr. Todd Smith: Yes, I agree.

The Vice-Chair (Ms. Lisa MacLeod): Okay. No problem.

Mr. Todd Smith: Thank you, Chair.

We just want to make sure, obviously, that we get the definitions right, which we’ve done. Now we’re dealing with section 4, which is the application of the Labour

Relations Act, 1995. One of the things that we've seen happen here is, again, in subsection 4(2), some words have been added. I know it was raised by my colleague Mr. Leone, wanting to know why those five words were added. At this point, I would like to perhaps get an answer to that question. I'm not sure if ministerial staff or legislative counsel would be best to answer this question. The five words that were added in subsection 4(2) were "and perform the crown's duties." They've been included in that section. I'm wondering if maybe we can get an answer as to what the crown's duties are, from the ministerial staff—

The Vice-Chair (Ms. Lisa MacLeod): We'll start with the government members. If they can't explain it—

Mr. Todd Smith: Sure.

The Vice-Chair (Ms. Lisa MacLeod): Mr. Balkissoon.

Mr. Bas Balkissoon: Madam Chair, if he could just state that clearly again so I can understand exactly—

Mr. Todd Smith: I'd be happy to do that, unless the Chair would like to do that. I would be happy to oblige here. There were five words that were added to subsection (2). Under the title "Same, limited application to the crown," after the words "privileges and" we have included "perform the crown's duties," and then "under this act." We're wondering what the crown's duties—

Mr. Bas Balkissoon: It would mean the duties as specified in the rest of this act.

Mr. Todd Smith: Okay. It's as simple as that.

Mr. Bas Balkissoon: Because the crown is now being injected into the bargaining process. The whole process of the crown participating in the bargaining is in almost every section of the act. It's just to clarify that those are the only duties they're going to do, and that everything else does not apply in comparing previous bargaining to what it will be in the future.

Mr. Todd Smith: Okay. This was a change that had been made in this motion. There was another reference that was changed as well, and we're striking sections. I'm just wondering why that addition of those words was made. Why was it necessary to add those words? Why was the original language in the bill not efficient or effective enough?

Mr. Bas Balkissoon: Madam Chair, if I could just say to my colleagues on the other side, this bill was presented to the Legislature in a previous form. Negotiations with the stakeholders continued throughout that process up until deputations. The amendments that you're seeing being put forward here are amendments that some of the stakeholders made of the minister and the ministry. We accepted those requests, and that's why they're now here as amendments to the original bill.

The Vice-Chair (Ms. Lisa MacLeod): Does that clarify?

Mr. Todd Smith: Sure. I would think it would be important to be able to express to the committee why these amendments and changes to the language are necessary. I'm not exactly sure that we've established why these changes are necessary—

Mr. Bas Balkissoon: I just said it. We did it because the stakeholders continued to meet with the minister. They requested some of these changes, and that's why you see a lot of the government amendments.

Mr. Todd Smith: I would also like to point out again that while the members on the government side have talked about the fact that they have met with stakeholders on this piece of legislation, I strongly argue that they haven't met with all stakeholders on this piece of legislation. The parliamentary assistant opened the door, here, saying that the government has met and consulted with stakeholders on this piece of legislation. But quite clearly, as we've discovered through this committee process, we haven't met with all stakeholders. We've met and heard from various teachers' federations, teachers' unions and some trustee associations, but we didn't hear from principals' councils, we didn't hear from parent councils and we didn't hear from parents on this piece of legislation. I just want to get that on the record again, that while the parliamentary assistant says that they have met with the various stakeholders on this important piece of legislation, they certainly have fallen short of meeting with all stakeholders in relation to Bill 122 and the impact that it's going to have on our education sector. Again, I just want to make sure we state that on the record loud and clear.

1410

The Education Act and the link with the Labour Relations Act is essentially what we're talking about in this piece of legislation. There were those five words that were added in subsection 4(2), "perform the crown's duties under this act." According to the parliamentary assistant, these words were added because stakeholders informed the government that they would like to have these words added. I'm not exactly sure that we've heard an explanation as to why these words were necessary in the legislation, but we'll move on to the next subsection, which is subsection (3) of section 4. I guess it would be subsection 4(3).

What we had previously has been completely struck and replaced with the words "Without limiting the generality of subsection (2), subsection 1(4) of the Labour Relations Act, 1995 does not apply to the crown." We've asked the ministry staff who are here about the effects that that change would have on this piece of legislation, and there were concerns there about the removal of the reference to the school boards opening the possibility of application or two school boards engaged in being one employer.

I'm just wondering if it would be possible again to ask the ministry staff if we could get some clarification on if two school boards have ever been engaged as one employer. Would it be possible to ask ministry staff?

Mr. Bas Balkissoon: Madam Chair, I think he asked the same question already, and the staff gave their best answer.

Mr. Todd Smith: I don't believe we have an answer on that.

Mr. Bas Balkissoon: I think Mr. Hadwen answered that question to the best of his ability.

Mr. Todd Smith: I'm sure I didn't ask that question.

The Vice-Chair (Ms. Lisa MacLeod): Could we have ministerial staff—

Mr. Bas Balkissoon: I believe he was asked the question, "Have there been instances in the past or can he give an example?" and he did provide an answer.

Mr. Todd Smith: Well, I would argue that I asked if there were scenarios in the past where this legislation and this language has been necessary to add, but I never asked if there were two school boards ever engaged as being one employer.

The Vice-Chair (Ms. Lisa MacLeod): What we'll do is for quick clarification, we'll ask ministerial staff to come to the table. If they cannot answer, they can say that.

Again, I just remind you to state your name very clearly for Hansard. If you can't answer it, that's fine.

Mr. Smith.

Mr. Todd Smith: Thank you, Chair. Gentlemen, I know in your previous visit here, I did ask if there were any scenarios that had existed previously in which it was necessary to change the language in the bill as it stands right now. I guess what I'm asking—correct me if I'm wrong, but you previously stated that there was some concern about two school boards being engaged as one employer. Could you maybe add some light to that?

Mr. Tim Hadwen: Tim Hadwen. The potential could exist for two school boards to act as one employer. Under the motion, that could be the subject of an application for the related employer application under the Labour Relations Act to apply.

The second part is whether, to our knowledge, there has been a case where two school boards have acted as one employer. Mr. Strang can address that question again.

Mr. David Strang: I'm not aware of any case. Obviously, I haven't had the opportunity to do a study, but I'm not aware of any case where two school boards have been alleged to be one employer.

Mr. Todd Smith: Right. I know there was some discussion that—and forgive me if I forget which section we were dealing with at the time, but there was some concern about the two French-language school boards. We were clearly defining the two French-language school boards. Is there any concern there that is related to this language? You're shaking your head "no."

Mr. Tim Hadwen: That's right. We're shaking our heads "no." There's no specific concern related to that issue.

Mr. Todd Smith: Okay. Thank you, gentlemen.

The Vice-Chair (Ms. Lisa MacLeod): Thank you very much to Mr. Hadwen and Mr. Strong.

Mr. David Strang: Strang.

The Vice-Chair (Ms. Lisa MacLeod): Strang; sorry.

Mr. Todd Smith: It's Strang with an A.

The Vice-Chair (Ms. Lisa MacLeod): Strang with an A.

Mr. Todd Smith: Yes.

The Vice-Chair (Ms. Lisa MacLeod): But he is strong—a strong performance.

Mr. Todd Smith: How much time do I have?

The Vice-Chair (Ms. Lisa MacLeod): You have about five minutes.

Mr. Todd Smith: Okay. Thank you, Chair. We were also discussing, and my colleague Mr. Leone was discussing, subsection 4(4) here, which has been added to the bill. Previously, there were three subsections under section 4. In the rewritten government motion that we're dealing with, (4) deals with, "Under subsection 1(4) of the Labour Relations Act, 1995, a school board cannot be treated as constituting one employer with a trustees' association."

It just seems to me that when we are debating a motion like this from the government, and the changes that have been made under section 4, we wonder how many other changes would be necessary or would have been brought forward to our committee had we gone through a proper process on this bill. We've talked about the fact that there have been a number of concerns. We have heard from many, many stakeholders in our ridings and from across the province, and we will be bringing forward our various motions and amendments to the bill. It begs the question: How thick is this document eventually going to become with amendments to Bill 122? Obviously, the changes that have been made here to section 4 are significant to improving the language in the bill, at least in the eyes of the stakeholders that the government has met with, and that's why we're debating these changes to the bill here today. But it does beg the question: How many changes would be made had there been a proper public consultation on this bill?

Again, we do have a significant stack of amendments in front of us already, and we will be going through the process of examining all of these various motions and amendments over the next series of meetings that we have here at the committee level. We wonder how many amendments we will actually be dealing with once we have tabled our amendments. So there is some concern in regard to the language that existed in the bill as it was originally drawn up. Obviously, it's a very important piece of legislation. If there had been a proper amount of public consultation on this bill, I believe we would be faced with many more, obviously.

1420

But the one thing, again, that I believe has struck me in the changes that have been made to this section was the fact that we were making it clear that the language needed to be right because we're dealing with two different groups within this act. We're dealing with the teaching staff and the non-teaching staff. Again, one of the issues that was driven home to me in the last year and a half was that there does need to be language in there that allows the non-teaching staff and the teaching staff to be dealt with in a proper fashion.

Again, I believe the link between the Education Act and the Labour Relations Act and clearly explaining how it affects teaching and non-teaching staff has been im-

portant to the process. The words that have been changed in this bill have come from the stakeholders who have been consulted, so it's important that we have at least listened to some of the stakeholders and had the opportunity here in committee to debate the changes that have been made. I look forward to moving on to the various sections, and we'll likely see some changes coming in those sections as well. But as far as section 4—

The Vice-Chair (Ms. Lisa MacLeod): I'm glad that you want to move on, because you're out of time, my friend. Yes, thank you. Any further comments? Any members?

Mr. Rob Leone: I do.

The Vice-Chair (Ms. Lisa MacLeod): Okay. Mr. Leone.

Mr. Rob Leone: Just a few comments. I don't think I'll take the rest of my time on this. I just wanted to touch upon something that my colleague Mr. Smith was talking about with respect to requesting some explanation for what the purpose was of adding the five words "and perform the crown's duties" to this piece of legislation. I noted with interest the response that we got from the parliamentary assistant on this particular matter, where he said that—and the only explanation we were given was because this was what was requested, basically, from the feedback that we got on this particular piece of legislation. I'd accept that position if it weren't for the fact that we heard a few comments on this particular piece of legislation from a couple of stakeholders that are different from what we actually see in this piece of legislation.

We heard from OECTA, for example—the talks about being bound by the Ontario Labour Relations Act. I remember they talked extensively about that. They also talked about trying to change the nuance of the wording. I remember CUPE also making a deliberation to this committee about subsection 4(3), and CUPE wanted to delete that subsection because they felt it was unrelated to the establishment of the central bargaining process in the sector. It would hamper their right to bring labour board and subsection 1(4) applications with respect to school boards.

I say this because while we only had the benefit of our interaction of a five-minute presentation and three minutes per party to actually to discuss these things, we don't have the benefit of those reasons that may be formulating, under which you have decided to actually put this amendment forward, rather than the other ones that were removed from the package or not going to be debated; they weren't really removed if they haven't been tabled. While I respect the fact that you suggest that there is some negotiation going on that has been ongoing since October 2013, we haven't been privileged to those kinds of negotiations. So when my colleague Mr. Smith asks a question about why we're including some words, we're kind of hoping for a bit more explanation than, "Well, we just had some negotiation with some of the stakeholders that were involved with this particular piece of legislation."

That, to me, speaks to the reasons why—I'm not going to go into them yet again—we sought more open, trans-

parent public hearings on this particular piece of legislation, so that all of us would benefit from having that understanding.

We're now being asked to vote on an amendment to this subsection without the benefit of the understanding that may have been shared with the government by various stakeholders. We don't know if this, at the end of the day, matches exactly what they want. I say that because—

Interjections.

The Vice-Chair (Ms. Lisa MacLeod): Order. Order.

Mr. Rob Leone: I appreciate the order; I was almost having a problem hearing myself think.

I would be more confident that this amendment was consistent with what the stakeholders had suggested had we had the full benefit of public hearings, but also if we had the opportunity to have some confidence that the government got this legislation right in the first place.

We were told that this legislation was put forth to the varying stakeholders—the partners, if you will, that the government likes to talk about that exclude parents and students. We were told that the lead-up to this legislation was so intense with negotiation that when we actually saw the piece of legislation, we thought we were going to have a bill that everyone agreed on. Nothing was further from the truth.

In fact, we have 70 amendments that were presented—more than 70 amendments; I can't even keep track of how many amendments there are. There are six piles of different amendments, the same amendments. I'm not sure what the total number is at this point in time, but I wouldn't be surprised if there are upwards of 100 different versions of amendments, at the very least. Not to say that we'd debate all those amendments, but there are at least 100 different versions of them.

I would suggest that to provide us with greater confidence that you actually got it right this time, when Mr. Smith asks a question about why we're including these words, the answer is a little bit better than, "Well, we've been negotiating with our partners and this is what we came up with." We thought that was what you came up with when you actually tabled the bill.

I don't have very much confidence at all that the debate and deliberations of changing these words actually satisfy the needs of our partners in education. Your partners obviously don't include parents and students like they do for us.

I do want to be very clear about this because it's so important to understand—and I think that when we ask these questions we're doing this because we do actually, genuinely, want to understand what we're voting on.

The ministry staff did come to the table and did provide that clarity, and the rationale seems to make intuitive sense to me. I would hate to suggest that if we actually go through with this amendment, we will at some point in the future see one of these partners balk at the kinds of changes we've made. You know how this happens when you have so many people at the table: If one person wants to change something, you say, "Oh, that intuitively makes sense," but it might not be consistent

with what another person you're trying to deal with thinks. So then what? Does that person complain? If that person complains, does this change yet again?

I think the fact that we've seen so many different versions of amendments on this whole section, section 4 of this act that talks about the application of the Labour Relations Act, 1995—we can't forget that is what we're talking about. I think we would all benefit from the full knowledge of what that is.

I would encourage the parliamentary assistant, in the future, if we do ask a substantive question, that there is, perhaps, a greater explanation so that we have more confidence that the amendment you've proposed fits the rationale, even if it's to say that we've had X partner and Y partner come forward that have both proposed this particular amendment, and that you've actually caucused it with other partners—some degree of reassurance that where you're landing right now with this amendment and this subamendment is exactly where you need to land, because without that benefit, as I've said before, we aren't going to have the confidence that that's actually been done.

1430

At this point in time, I don't know who has proposed this particular subamendment because we weren't privy to those discussions. I have some concern about that aspect and that possibility that there might be another partner out there that doesn't know about this subamendment, that doesn't know or doesn't agree to it, and that by passing this particular subamendment, we will be putting ourselves in a bind between two partners of varying opinion. That possibility exists anytime we make a particular amendment.

So I hope, when we try this once again, to ask for some greater clarification; that we actually do end up getting that clarification for the members of this committee who are going to be asked to vote on this.

I do want to just touch upon a couple of other things. We have been talking about the proposed amendment, which is to change subsections 4(2) and (3) by striking them and adding the new language on subsections 4(2) and (3) and adding subsection (4) to this section.

One of the things that I wonder is: Why do we have to add subsection (4) as a completely other subsection? If you look at the way the titles of these sections are listed, subsection (2) says that the title of that is, "Same, limited application to the crown," which is the same as the bill suggests, but the title of subsection (3) changes from "Restriction re: related employers" to the new wording, which is "Same re: related employers." Subsection (4) just has the title of "Same." I'm assuming, in the process of saying "Same" for subsection (4), that it means, "Same regarding related employers." If I'm not correct in that, I hope that somebody—well, am I correct in that? Is that a proper assumption?

Interjection.

Mr. Rob Leone: So why, then, are we actually adding a subsection (4)? Why aren't we just adding the verbiage, "Under subsection 1(4) of the Labour Relations Act,

1995, a school board cannot be treated as constituting one employer with a trustees' association"? Is someone able to answer that question for me, of why we have to have another subsection with respect to that aspect?

The Vice-Chair (Ms. Lisa MacLeod): Mr. Balkissoon, can you answer?

Mr. Bas Balkissoon: Madam Chair, I think if you look at the section—I'm sure my colleague would go back to the heading of section 4. All the other sections—2, 3 and 4—are related to the main topic that's on 4, which is "Application of the Labour Relations Act, 1995."

"Same," (2), is just saying the limitations to the crown.

"Same," (3), is related to employees.

I'm sure my colleague is familiar with the way legislation is drafted.

Mr. Rob Leone: I'm just asking why subsection (4) isn't included in subsection (3) if it's the same as "related employers." You just wanted to specify and make sure everyone knew, and it was highlighted, with their eyes pointed to the fact that it was a point very important to make, that you had to actually add it to those subsections?

Mr. Bas Balkissoon: Absolutely.

Mr. Rob Leone: That's it? I can accept that. I'm not quite sure why, but I at least can accept that.

I'll note that when we looked at the other changes, there is variability between 3.1—sorry; I shouldn't name them like that—between what we presented today with what we were presented before. There were some changes with respect to that, particularly in this last subsection. I'll read the two in and then we'll talk a bit about that.

The original amendment that we were presented that has not been tabled is, "Under section 1(4) of the Labour Relations Act, 1995, a school board cannot be treated as constituting one employer with another school board or a trustees' association." So there has been some modification and refinement there. I can see the clarity that has been given and the rationale to it. But again, it speaks to the greater question of what I was talking about before. The negotiation to these amendments that the government presented started happening right after the October 22 tabling of this bill—

The Vice-Chair (Ms. Lisa MacLeod): I just want to draw to the member's attention, he has to talk to the motion that he's putting forward, not one that hasn't been moved.

Mr. Rob Leone: Okay. My statement is a little bit different. We're talking about the one that's before us and I acknowledge that.

What I was going to suggest, though, is that when these negotiations started happening, we were presented with a version of this amendment that is different than the one that we see today. In the process of making these amendments, I find it very interesting that we are seeing a different version. Again, it speaks to the issue that I brought up when I started my second round of comments on this. We need to have the confidence that we've ac-

tually got this subsection right. At this point in time, I'm not seeing that we do.

Again, there are varying interpretations of what we should have said. I'm hoping that we've squared on the language that's acceptable to most people, but I don't know, as a legislator on this committee, whether that is, in fact, correct, because I didn't hear in the public hearings those specific comments and we didn't benefit from what the government was saying.

Chair, that is the point I wanted to make. As I mentioned, I didn't want to take my full 20 minutes. I'm not sure if my colleague Mr. Smith has any further comments to make on this particular bill, but I would be happy to finish my comments on that.

The Vice-Chair (Ms. Lisa MacLeod): Sure. Any further comments on this section? Are the members ready to vote?

Mr. Peter Tabuns: Yes.

Mr. Rob Leone: I'd like a recess, please. Twenty minutes?

The Vice-Chair (Ms. Lisa MacLeod): A 20-minute recess? That's what you want?

Mr. Rob Leone: Yes.

The Vice-Chair (Ms. Lisa MacLeod): Okay. We'll return at 2:57.

The committee recessed from 1437 to 1457.

The Vice-Chair (Ms. Lisa MacLeod): Okay, ladies and gentlemen, we're back. We have one vote before us on government motion 3.1. I'm now calling the vote.

All those in favour, please say "aye." All those opposed? The motion is carried.

Given the time, we're going to adjourn for the day until next Wednesday at noon in this same room. Have a great week.

The committee adjourned at 1458.

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